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ABSTRACT

This 3-year project aimed to improve delivery of support and instructional services among 33 West Virginia county school districts in implementing special education mandates. The participating school districts are within the service area of West Virginia University. The introduction details each year's objectives. "Year one" pursued needs assessment and pilot training; "year two" involved workshop training; and "year three" provided followup and dissemination. Section 1 discusses inservice training for development of administrative teams. Needs assessment analyses determined problem areas among districts in providing effective special education services. Section 2 discusses administrative challenges and gives examples of workshop materials and procedures, including the use of role-playing. Administrative topics are as follows: (1) communication and coordination; (2) planning and budgeting; and (3) facilities, transportation, and equipment. Section 3 details inservice processes of two sessions for members to identify individual county needs in planning development. County consultants facilitated communication and acted as resources for technical assistance and evaluation. Figures present data on consultants' procedures and inservice members' participation. An analysis considers project effectiveness. Workshop evaluation forms and lists of teams are included. One result brought about by the involvement of district personnel in planning is that increased responsibilities and involvement should promote positive attitudes toward programs and cooperation throughout district organization. Districts and the university continue to cooperate. Districts in West Virginia have exceeded special education compliance in striving for quality. Needs assessment instruments, 10 pages of references, and a list of 13 audiovisual resources are appended. (CJH)

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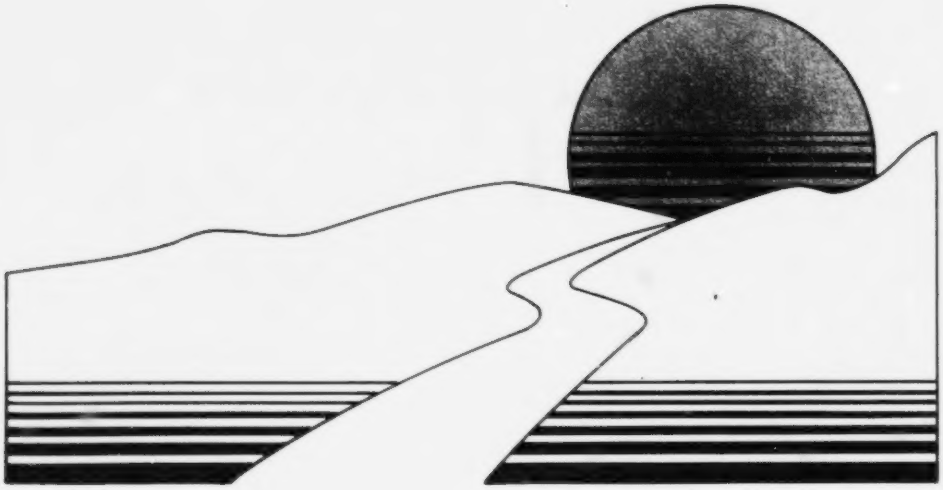
Beyond Special Education Compliance:

Administrative Challenges for Reaching Educational Excellence



Specialized Training of Regular Educators in Development and Implementation of Special Education Services in School Districts

Final Report and Training Manual

Marta A. Roth, Editor
Dean's Grant Project
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Morgantown, WV 26506

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Specialized Training of Regular Educators in Development and Implementation of Special Education Services in School Districts

(A Final Report and Training Manual)

Editor: Marta A. Roth, Ed.D.
Research Associate and
Project Coordinator
Dean's Grant
West Virginia University

FOREWARD

Completion of the West Virginia University final report on its Dean's Grant project of 1983-86 coincides with the end of federal monies provided by our federal government to change teacher education in accordance with P.L. 94-142. The last few years of federal support have made an important change in the development of practicing teachers, principals, supervisors, superintendents and board members; and that future practice will be improved.

The West Virginia University approach to bring together the administrators and school board members from five or six school districts at a time for a two-day workshop was an effective technique. The focus on knowledge, coordination and communication carried back to the districts and school operations. The efforts of superintendents and special education directors made the project work.

The leadership of the Dean's Office had a positive impact throughout the State. The cooperation of the Education Administration program unit, chaired by Richard Hartnett, was essential to the successful completion of the project and is appreciated. The work of Marta Roth in the day-to-day operation was outstanding. Special recognition is also given to the faculty from Education Administration and Special Education program units for their significant time and talent contributions.

The focus of the Dean's Grant was to improve the delivery of support services and instructional services to the pupils in our school districts. In spite of a catastrophic flood, which damaged and destroyed school buildings in several participating districts, many of the activities were implemented in the schools to the benefit of pupils and our State.

Diane L. Reinhard
Dean, College of Human Resources
and Education
Acting President, WVU

Ernest R. Goeres
Interim Dean, College of Human
Resources and Education

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March, 1986

West Virginia University
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TABLE OF CONTENTS

Page

FOREWARD . . . . Diane L. Reinhard ii
Ernest R. Goeres

INTRODUCTION:
Beyond Special Education Compliance . . . . Marta A. Roth 1

SECTION I: DEVELOPMENT OF SITE-SPECIFIC DATA BASES FOR INSERVICE TRAINING OF ADMINISTRATIVE TEAMS . . Marta A. Roth 15

SECTION II: ADMINISTRATIVE CHALLENGES FOR TEACHING EDUCATIONAL EXCELLENCE: GENERAL WORKSHOP DESIGN AND TRAINING MANUALS 26

Introduction . . . . Marta A. Roth 27

- Fictitious Frustrations: THE COMICAL COMPLEXITIES OF TEAM COOPERATION/A CELEBRATION OF OUTSTANDING ACCOMPLISHMENTS . . . . Marta A. Roth 32

- Communication/Coordination: THE LEGAL PROCESS . . . . John Andes 46

- Communication/Coordination: THE REFERRAL PROCESS . . . . Annette U. Shuck 114

- Planning/Budgeting: WHERE'S THE BUCKS?. . . . Barbara C. Ritchie 143

- Facilities/Transportation/Equipment: BUILDINGS, BUSES, & BARRIERS . . . . H. Edward Lilley 153

SECTION III: THE INDIVIDUAL COUNTY PLAN: INDIVIDUAL WORKSHOP DESIGN AND TRAINING MANUAL/MATERIALS . . . Marta A. Roth 181

ANALYSIS: THE NEXT STEP BEYOND COMPLIANCE . . . . Marta A. Roth 201

APPENDIX: THE NEEDS ASSESSMENT INSTRUMENTS 215

REFERENCES AND RESOURCE MATERIALS 240

INTRODUCTION

Beyond Special Education Compliance

The College of Human Resources and Education at West Virginia University was awarded a grant for Specialized Training of Regular Educators in Development and Implementation of Special Education Services in School Districts. More specifically, this project provided for extensive needs assessment, workshop development and subsequent training in the identified major problem areas for LEA's in the 33 county school districts within West Virginia University's service area. Evaluation and dissemination efforts have also been a major goal of this Project. While the federal grant focused on superintendents, boards of education, and designated central office personnel, prior West Virginia State Department of Education funding permitted us to include building level administrators and thereby reduce the time of implementation of change strategies from central office to specific buildings.

Design for Organizing the Project

The plan of operation called for two major groups to work toward achieving the project objectives: An Advisory Committee and a Steering Group. The composition and functions of these two groups are described below:

Advisory Committee members were appointed from the State Superintendents Association, the State School Board Association, Local Education Agencies, Regional Education Service Agencies, State Department of Education, and West Virginia University. The purpose of the Advisory Committee was to facilitate gathering all needs assessment data at the state, regional, and local levels; and to help coordinate participation of LEA's during the first year in administering interviews, questionnaires, and other forms of data collection for the project.

The Steering Group was composed of faculty from Education Administration, Special Education, Education Psychology, LEA practitioners at the supervisory and support services levels, central level administrators, and a board of education representative. This group, as indicated on the management plan charts for each objective, had primary responsibility for accomplishing the tasks of the project. The Steering Group collected and analyzed all available compliance data, designed and conducted the needs assessment, developed and piloted workshop training, and participated in evaluation of project activities and subsequent planning on the basis of evaluation data.

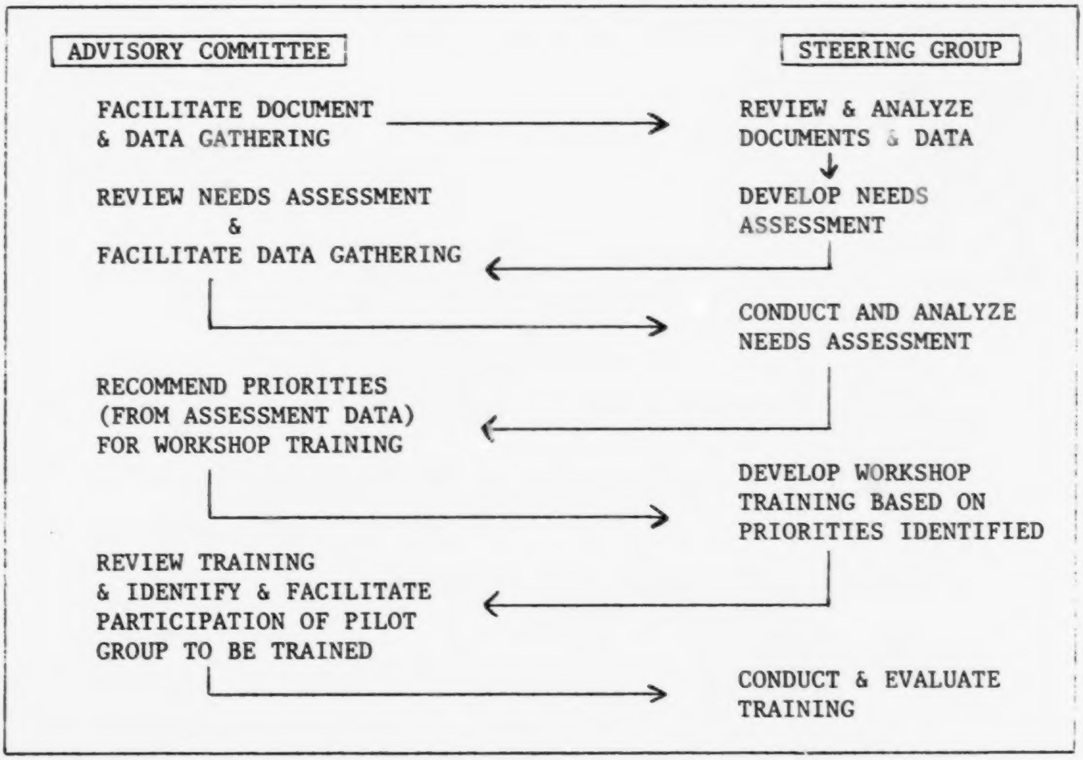
At the beginning of the project, the Project Director and the Project Coordinator formed these two groups and provided for accomplishment of the following:

1. Review of functions, responsibilities, and project objectives.
2. Establishment of operating agreements: decision-making process, agenda development, communication, meeting schedule, and other considerations in effective group process.
3. Development of specific work plans for meeting primary responsibilities, including identification of possible barriers and assignment of tasks.

The Project Coordinator was responsible for linking between these two groups and among any sub-groups that were formed to carry out specific tasks. For instance, the Steering Group developed a work plan that included information of temporary groups composed of those members who had the requisite knowledge and expertise to complete special technical and/or conceptual tasks.

The coordinating function in this project was critical to success, since there was an almost constant interaction of activities in the various objectives. For example, the Advisory Committee's work in facilitating data gathering was vital to the Steering Group's progress in reviewing and analyzing documents that yield information about problem areas, which in turn were necessary for the development of the needs assessment and the design of training workshops.

SAMPLE FLOW OF PROJECT ACTIVITIES


ADVISORY COMMITTEE
STEERING GROUP
FACILITATE DOCUMENT & DATA GATHERING
REVIEW & ANALYZE DOCUMENTS & DATA
REVIEW NEEDS ASSESSMENT & FACILITATE DATA GATHERING
DEVELOP NEEDS ASSESSMENT
CONDUCT AND ANALYZE NEEDS ASSESSMENT
RECOMMEND PRIORITIES (FROM ASSESSMENT DATA) FOR WORKSHOP TRAINING
DEVELOP WORKSHOP TRAINING BASED ON PRIORITIES IDENTIFIED
REVIEW TRAINING & IDENTIFY & FACILITATE PARTICIPATION OF PILOT GROUP TO BE TRAINED
CONDUCT & EVALUATE TRAINING

Project Objectives and Major Activities

YEAR ONE: NEEDS ASSESSMENT AND PILOT TRAINING

With the assistance of the Project Advisory Committee, the Steering Group completed a comprehensive needs assessment of the 33 school districts in their efforts to implement the special education mandates. During the end of the initial project year, a pilot administrative training workshop was presented for selected LEA teams of superintendents and board of education members.

The objectives for the first year are presented below.

Objective One: Review Compliance Data

This objective was aimed at developing an initial data base of existing documents that identify impediments and administrative problems in full LEA compliance with stated special education mandates.

Objective Two: Design, Develop, and Conduct Project Needs Assessment

This objective was aimed at developing a comprehensive in-depth survey of LEA's emergent problems in implementing the special education Regulations. Results from the first objective were incorporated into the activities of the second objective.

Objective Three: Presentation of Pilot Training Workshop

The purpose of this objective was to field test a training program for teams of superintendents and board members in representative administrative functions so as to build a sufficient knowledge and attitudinal base and a managerial plan for improving the delivery of special education services at the central level of administration.

-- The workshop macro-design was developed using the data gathered in the above activities. Specific logistical matters such as selection of training sites, schedules, and resources were planned.

-- Specific workshop content and design proceeded from examination of needs assessment data.

-- Recommendations about all aspects of the pilot training were made by the Advisory Committee.

-- Training workshops in knowledge, attitude, and administrative strategies were conducted by project staff and a specific action plan was developed by the LEA teams to include projected administrative strategies to alleviate perceived organizational problems in their systems.

Objective Four: Formative Evaluation of First-year Activities

The purpose of this objective was to provide a firm assessment of the appropriateness of project activities, ways to improve the delivery of intervention and change strategies, and recommendations for planning the second year's activities. Given the nature of the first year's thrust, the evaluation was formative, serving to guide the project director and coordinator by providing feedback about design, implementation, and results obtained in the three objectives.

-- A formative evaluation design was developed to measure the achievement of each objective during the first year. The design was approved by the funding agency and the Advisory Committee.

-- All project activities were carefully documented and performance criteria were identified for measuring degree of accomplishment.

YEAR TWO: EXTENDED WORKSHOP TRAINING

Five major project objectives were targeted for completion during the second year of the grant award. Major objectives included:

1.) Develop, Use, and Revise Training Manual/Materials;

2.) Provide Initial Training of LEA Teams;

3.) Provide Follow-up Sessions and On-site Consultation to Participating LEA Teams;

4.) Conduct Formative Evaluation of Second-Year Activities; and

5.) Conduct Concluding Planning Session with LEA Teams. (Revised)

Objective One: Develop, Use, and Revise Training Manual/Materials

Evaluative feedback from pilot workshop participants and process observers required extensive re-design of workshop processes and content. Sessions and materials relating to attitude change techniques and basic knowledge of P.L. 94-142 and state regulations were only relevant to a select few individuals while barriers to implementation of special education programming were determined to be more cogent. Topics such as facilities, the referral process, special education funding, legal issues and due process procedures were addressed more directly in the re-design efforts. Approximately 80 percent of the pilot workshop materials gathered and/or compiled by project staff were used as supplemental resources along with films, videos, booklets for those county teams which expressed needs in these areas. Generic topics and materials relating to administrative functions were generated through the expert review of project staff.

Subsequent revisions of workshop materials and manual were conducted in evaluative sessions by project steering committee personnel following each of the three workshop sessions conducted in the second year. By the culmination of the second year, a workshop manual and resource materials were firmly in place through an extensive revision process conducted by project staff, process observers, and workshop participants.

Objective Two: Provide Initial Training of LEA Teams

Three workshop sessions were conducted during the second year of grant activities. While the initial grant objectives were to train representative teams from each of the five RESA areas and the proposed design envisioned an "each one teach one" model, re-design and implementation efforts during the second year focused on the training of county teams by RESA Region with dissemination efforts for subsequent workshop content and materials as a within county effort.

Five teams, selected on the basis of their geographic proximity to the selected site, availability and interest and enthusiasm for improving administrative implementation of the special education mandates were trained during each of the three sessions during 1984-85. A total of 75 individuals received training during the 1984-85 grant year. Each county team was composed of a board member, the superintendent, the director of special education, an elementary and a secondary principal. All attempts were made to invite those same individuals who participated in the first year needs assessment process. Up-dating of needs assessments for those newly selected team members was conducted as appropriate.

Two major evaluation efforts to serve as the basis for revision of workshop activities as well as summative review of second year processes were conducted. Following each one and one-half day workshop, participants were requested to complete an evaluation instrument developed and revised during the initial pilot session. Each major generic session presentation as well as the ICP (individual county planning sessions) was rated as to their relevancy, content, method and overall benefit to workshop participants.

The second evaluative effort for workshop participants was based on follow-up data generated by county. During each workshop, each county team with the assistance of a "county consultant" developed a change infusion plan based on the initial needs assessment and information gathered during the one and one-half day workshop presentations. This effort resulted in the writing of an (ICP) individual county plan which delineated specific goals, activities, resources, and evaluative methods for attempting to meet each county objective. Fifteen ICP's from the second year county teams and two from the pilot county teams were in place, for a total of 17 ICP's.

Follow-up procedures were conducted by county consultants. Each consultant was requested to make phone contact, first with the superintendent of each assigned county one month after the initial workshop participation. Suggested questions and a format for reporting data were developed. As needed and through clearance from each superintendent, other team members were also contacted. The second month phone contact was reported on the same data sheet. An on-site visitation was then scheduled approximately three months after the initial training.

Objective Three: Provide Follow-up Sessions and On-site Consultation To Participating LEA Teams

Since workshop re-design and implementation focused on individual county change infusion plans rather than the "each one teach one" concept originally proposed, follow-up and on-site consultation was likewise re-directed toward specific county assistance needs. During the first and subsequent phone contacts by county consultants, barriers to implementing individual county generated objectives were identified. Consultants provided technical assistance to county teams through:

1.) providing help in finding solutions and providing resources and inservices to overcome unique and unanticipated problems requiring special insights and/or expertise;

2.) providing general support to the LEA team in following up its ICP; and

3.) gathering information about the implementation process in each county to share with other counties as requested.

County consultants were trained and given guidelines for conducting the follow-up and on-site processes. General findings on the follow-up processes were as follows:

1.) While the initial phone follow-up contact by county consultants was with the superintendent, the superintendent directed most future communications to the director of special education.

2.) Materials sharing from the workshop was most usually done on an informal basis. A few counties presented workshop information to the boards while others had plans to conduct similar workshops particularly with building level administrators.

3.) One of the major barriers to implementing specific county change infusion plans was time. Perhaps the follow-up procedures need to take this element into consideration especially with the first phone contact being within a short span of time between the writing of the ICP and first contact.

4.) Most counties felt no need for the consultant to conduct the on-site visit. Most closing interviews were conducted by phone with the director of special education suggesting that they'll call the consultant if necessary.

5.) The most widely sighted benefit mentioned by workshop participants was an increase in communication between the members of the county team and a more positive attitude toward special education within the county.

Objective Four: Conduct Formative Evaluation of Second Year Activities

Management Evaluation Activities

1.) Project 1st tier steering committee members met on a weekly basis during the second year of the grant. Weekly minutes of these meetings were sent to all project staff.

2.) Documentation of the decision making processes and content relative to workshop evaluation, subsequent revision, site and county selection were conducted, recorded and distributed to project groups. Debriefing sessions were conducted following each workshop.

3.) Written guidelines for training county consultants in general responsibilities, individual county needs assessment data interpretation, writing the (ICP) Individual County Plan, and conducting follow-up activities were developed and distributed to project groups.

4.) Training sessions for county consultants were conducted and methods revised as needed.

5.) All workshop activities were documented including the scheduling of county teams and concurrent written communications, scheduling of workshop sites and arrangements, preparation and printing of workshop manuals/materials and evaluation instruments, and county consultant follow-up procedures and data generated from follow-up evaluations.

Workshop Evaluation Activities

1.) An evaluation instrument to provide project staff with formative information relative to each workshop session was developed. Preceeding each of the three workshop sessions, debriefing with workshop county consultants and presenters was conducted. Data summaries of each workshop presentation were generated and reviewed by project staff. Specific recommendations on needed modifications were developed and then incorporated into the presentations.

2.) Comments by participants regarding the most beneficial aspect of workshop content/processes were requested by county consultants in their follow-up interviews. Again, the most widely sighted benefit mentioned by those participants interviewed in follow-up contacts was an increase in communication across the team in addition to a more positive attitude about their special education program.

In fact, a dissertation using the needs assessment data was recently completed which substantiated the need for system-wide communication and the understanding of roles across the five positions addressed in this project. It was found that agreement in task assignment between the superintendent and elementary principal, the board member and secondary principal, and the director of special education and secondary principal was significantly related to higher state compliance with regulations for educating exceptional children (Roth, M. A., 1985, Task Role Congruency Relating to Special Education State Compliance Monitoring, Doctoral Dissertation, West Virginia University). Further, selected participants were requested to retake the "Barrier Ratings Instrument" after workshop training. While other factors may have contributed to the clearer understanding of task assignment between members of the county team, data gathered using this post testing process confirmed more agreement after participant participation in workshop activities.

3.) Through extensive revision based on participant feedback and project staff review, the training manual/materials, workshop content and processes were in place for third year implementation and dissemination. Final preparations were underway to incorporate complete instructions for use by other interested groups.

4.) A summary of select follow-up findings was reported. While the number of individuals involved in county plans as a result of workshop objectives in the ICP is considered a low estimate, the average involvement of county personnel who have been either brought into the implementation process or who have been inserviced within the county is 24. The average of those counties who reported data on the percentage of written objectives that have been achieved to date is 59%. Consultants reported an average of two follow-up contacts with on-site visits scheduled later in the year.

Objective Five: Conduct Concluding Planning Session With LEA Teams

Since initial project design and implementation activities were modified as a result of first and second year findings, the concluding planning session with LEA teams was revised. Follow-up procedures within county districts have continued and have included continued support to county personnel in promoting workshop content/materials/processes within the county districts. Consultants have promoted, through the ICP processes, efforts to disseminate workshop information to other administrative personnel and board of education members within their respective districts. In this manner, vertical and horizontal training activities within county districts have occurred.

YEAR THREE: EXTENDED FOLLOW-UP AND DISSEMINATION

Objective One: Training and Follow-up of the Other LEA's

As workshop re-design has dictated, third year training activities conducted by project staff included 16 remaining county teams which did not receive the initial training. Follow-up activities continued with those county teams which were trained in year two as well as those trained in year three.

Objective Two: Dissemination and Replication

The model was presented at state and national conferences. The model contained an administrative plan for training chief school officers and boards of education in confronting problems of compliance, technical delivery services, and other facets particular to effective education for exceptional students. The contents herein contain the general and individualized manuals and materials used in training administrative teams in West Virginia's school districts.

Objective Three: Evaluation

Evaluations of the multiplier effects within and among school districts were conducted in order to pinpoint remaining problems and to refine the workshop model for replication in other states and regions. The ICP process was assessed to determine the impact of individually designed change infusion plans on problem resolution. Results of the West Virginia experience have been shared with other school systems facing problems with effective implementation of special education policies and procedures. Specific project evaluation components, accomplishments, and recommendations are discussed in the last section, Analysis: The Next Step Beyond Compliance.

The commitment and support of the many persons and organizations permitted the successful completion of the Project's objectives. Particular acknowledgement is extended to those school districts—their board members, superintendents, directors of special education, and principals who joined us in an effort to set goals and discover solutions in a cooperative atmosphere. Contributions in time and energy by the Project Advisory, Steering Committees, and session workshop developers and presenters permitted the invaluable feedback necessary to develop the timely and most appropriate design for meeting school districts' needs. Participation as County Consultants by Edna Thompson and Luise Savage permitted "true"

individualization of activities. A sincere thanks and acknowledgment is extended to Ruth Butcher for her painstaking and meticulous work in the preparation of grant materials and this manual. Finally, it is to those whose leadership not only provided the vision and inspiration for the Project, but also whose positive forces enhanced each moment in the reaching of educational excellence—Diane L. Reinhard, Dean; Ernest R. Goeres, Acting Dean; Katherine Lovell, Assistant to the Dean; John Andes, Associate Dean; and Richard Hartnett, Program Coordinator, Educational Administration.

Marta A. Roth

SECTION I: DEVELOPMENT OF SITE-SPECIFIC DATA BASES FOR INSERVICE TRAINING OF ADMINISTRATIVE TEAMS

by

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and
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I. Introduction

Continuing education and inservicing of public school personnel continues to receive attention as a primary means to promote educational excellence. In fact, state standards mandate the participation of administrators, central office as well as building level in programs which deal with the delivery of services to exceptional children. While traditional inservicing, those prescribed by expected needed competencies, may have been beneficial during the early periods after the passage of P.L. 94-142, school district personnel have made substantial gains in meeting state procedural requirements for exceptional children. Rather, new models for continuing education in the special education delivery process need to be developed to reflect the changing needs and focuses toward quality programming for the exceptional student. It was toward this effort that a site-specific data based design was adopted for developing current and meaningful inservices for administrative personnel in the delivery of services for exceptional children.

II. Background

The Project

The College of Human Resources and Education at West Virginia University was awarded a grant for "Specialized Training of Regular Educators in Development and Implementation of Special Education Services in School Districts" (G008301586). More specifically, the project's goals have provided extensive needs assessment, workshop training in major problem areas, and evaluation and dissemination activities for LEA's in the 33 county school districts within West Virginia University's service area. The project focused on superintendents, boards of education, and designated building level administrators so as to improve the quality of special education services within the local districts.

The Needs Assessment Instruments

Four measures were developed and/or compiled by Project Staff to ascertain areas of need in services for exceptional children. The following were the types of instruments used to assess needs:

1) Opinions About Special Education Issues;
2) Knowledge About Special Education Issues;
3) Barrier Ratings; and
4) Critical Incident Questionnaire.

The instrument design was based on the expert review of the Project Staff and Advisory Committee. A pilot needs assessment was conducted and modifications were made. Analysis of content, wording, and relative appropriateness was conducted to yield the four instruments measuring attitudinal (19 items) cognitive or knowledge (20 items), barriers (18 items), and a modified critical incident approach to provide a means for an open-ended interview process with the select sample of administrative team members (Appendix).

The Sample

The research sample for this investigation consisted of five administrative and/or governing board participants in each of the northern 33 counties designated in the West Virginia University service area. The five members from each county consisted of a board of education member, the superintendent, the director of special education, an elementary principal, and a secondary principal yielding a total respondent sample of 165 individuals in 33 county school district units.

Each county superintendent was contacted by phone and letter requesting his/her participation along with the aforementioned individuals in the county district. The superintendent was asked to select the board member of choice to assure maximum participation and to circumvent any tensions between the administration and the board in the district. Principals were selected on the basis of the size of their schools to gain a sample of school level administrators who were most likely to serve a wide variety and large number of special education students. These individuals, along with the person in charge of special education services in the central office, were selected to participate in the needs assessment process.

The Needs Assessment Process

The superintendent was requested to arrange a two-hour block of time in which the selected team could meet at the central office. A two-member interview team previously debriefed on the use of the instruments and verbal interview procedures, permitted the maximum use of time for conducting the needs assessment. In some cases, one interviewer requested that the superintendent schedule team members at staggered two-hour time intervals. The "Barrier Ratings" was left with the Director of Special Education, complete with instructions, grant overview, and self-addressed envelope for return.

County needs assessment interviews with each five member administrative team were scheduled beginning in January, 1984 and ending in May, 1984.

III. Results of the Needs Assessment

Attitude Needs Assessment Results

Means were computed by position, the three item clusters, and by totals on the nineteen item attitude instrument. This normative analysis indicated from the item clusters, generally favorable attitudes toward the handicapped ($\overline{X}$ = 3.02 on a 1-4 point scale with 4 indicating the most positive response) and rather positive attitudes regarding the effects of special education on the non-handicapped school population ($\overline{X}$ = 2.95). The item clusters dealing with the effects on school and society in general, however, yielded the lowest overall cluster mean of 2.70 as did specific items within the clusters. Two items measuring opinions about the attendance of children at school with severe/profound handicaps and those who are not toilet trained yielded the relatively low means of 2.73 and 2.55, respectively. An overall mean of 2.63 was reported on item content dealing with the increased burden on regular classroom teachers and a mean of 2.73 on the sources of funding for the education of the handicapped.

When viewing item and item cluster means by positions, Board members reported the lowest means on all items dealing with the severe/profound and children who are not toilet trained along with those items about regular classroom teachers' burdens and funding sources for the education of exceptional students. A mean of 2.7 emerged for Board members regarding uncomfortable feelings with children who have obvious physical deformities. While the total mean attitude score for Board members was 2.8, generally favorable, it was the lowest mean by position with superintendents, and elementary and secondary principals yielding 2.9s.

Superintendents and secondary principals, however, within specific items, had means lower than other position members. A $\overline{X} = 2.6$ was recorded for superintendents on content dealing with providing education for only those children who could profit from academic programs. Secondary principals reported low position means on those aforementioned items dealing with the severe/profound and non-toilet trained children a 2.5 and 2.2 respectively.

While the overall data on attitudes were generally toward the positive end of the scale, the Project Steering Committee concluded that item content analysis and viewing individual county data would yield a better index for determining workshop content. Wide variation within counties on items, item clusters and overall mean attitude scores emerged with those content areas showing the lowest means in the normative analysis also showing the most variation within counties and within county positions.

Cognitive Needs Assessment Results

The analysis of the twenty item knowledge questionnaire was conducted by item, positions and administrative function categories. The overall percent correct by positions is as follows:

		Percent Correct
Board Member	=	60.2%
Superintendents	=	73.3%
Elementary Principals	=	67.5%
Secondary Principals	=	63.0%

Items categorized as dealing with the maximization and utilization of federal funding yielded the lowest percent correct by all positions with only 8% of the Board members in the sample responding correctly. Out of district funding for educational programs was the next lowest ranking content item for all positions with an average of 28% of the total sample participants answering correctly.

Placement criteria content items specifically dealing with the required participants and assessment procedures were answered correctly by less than half of the participants as were items dealing with related service arrangements. A 67% correct of all positions on items dealing specifically with state regulation content was not significantly different than the overall position (66%) reported for the total twenty content items.

Position variation in item/percent correct was noted between superintendents and elementary principals with 97% and 86% respectively and Board members and secondary principals with 58% and 57% respectively on items dealing with due process and parental involvement and rights. Board members as a group scored the highest percent correct, 83%, on the item dealing with transportation issues while superintendents and elementary principals scored below 70% correct. On the other hand, superintendents demonstrated an 86% correct knowledge of the least restrictive environment principles compared to other position respondents scoring below 70%.

Barrier Needs Assessment Results

Means, medians and modes were calculated by item, position and administrative function category for the eighteen item Barrier Ratings Instrument. Primary focus of attention was directed toward the overall ratings of magnitude of problem.

Only one area of content, "facilities needs" emerged as relatively high in magnitude across all positions including the Directors of

Special Education. Within position differences, however, in magnitude of problem were apparent in content items dealing with planning and coordinating with the Directors of Special Education rating them higher in magnitude than other position groups.

In comparing the normative means and modes within item ratings, across position yielded information for viewing possible differences within county positions and subsequently led to the discovery of wide variations existing in perceived problem magnitude within counties. While specific problem content areas were not readily apparent in viewing the group analysis, considerable variation in magnitude rating within county team members emerged.

An additional source of data, that of viewing inter-county ratings of "responsible party," confirmed these findings and focused attention toward the uniqueness of problem areas found within counties as opposed to the focus on overall group findings. It was also concluded that within county understanding of roles for initiating problem resolution was highly lacking across most counties.

Critical Incident Needs Assessment Results

The four groups of respondents were asked to identify the most pressing concern or "critical incident" that they face with respect to the delivery of special education services. The responses were categorized into the types of issues and the frequency of mention was reported by position and totals by issues. Needs for updates in regulations, laws and policies governing the educators' positive attitudes, and needs for qualified personnel were the most frequently mentioned concerns. In addition, space problem, outmoded facilities and overcrowding were mentioned as problem areas.

IV. Translation of Needs Assessment Result into Inservice Design

Through review and summary of needs assessment data both normative and individual county pilot profiles, recommendations from Advisory Committee members, consultants, and extended faculty were made which resulted in the categorization of the workshop sessions to address specific administrative issues. Additionally, it was recommended that the workshop include a session to address individual county needs and provide assistance in drawing up a plan to meet these individual needs.

General Session Design

The design for each general session was drawn from content developed and verified in the literature and from the needs assessments results. Care was taken to pinpoint specific issues, particularly those such needs for legal updates which emerged out of more than one of the needs assessment instruments. Each session content paralleled that which was addressed and analyzed as being a needs issue in each of the needs assessment categories.

Five administrative areas were addressed as being relatively high in need based on data received from county participants. They included and were based on information derived from each of the needs assessment instruments designated below:

Administrative Area	Data Derived From:
I. Communication Among County Team Members (Role Play)	Opinions About Sp. Ed. Issues, Critical Incident Interview, and Barrier Ratings

	Administrative Area	Data Derived From:
II.	Referral Processes	Barrier Ratings, Knowledge About Sp. Ed. Issues, and Critical Incident Interviews
III.	Legal Processes	Knowledge About Sp. Ed. Issues and Critical Incident Interviews
IV.	Budgetary Concerns	Knowledge About Sp. Ed. Issues, Opinions About Sp. Ed. Issues, and Critical Incident Interviews
V.	Facilities and Space Concerns	Barrier Ratings and Critical Incident Interviews

Each general session dealt with the specific administrative area, focusing on major problems and creative solutions and promising practices to address each major problem. Activities included in each session were designed to elicit participatory responses by the audiences to maximize inter-county team sharing.

Individual Session Design

In viewing the needs assessment data from an overall perspective, one of the major findings indicated that the 33 counties surveyed had less needs in common than was originally suspected. The uniqueness and wide variation of expressed needs between counties led to the inclusion of the (ICP) Individual County Plan process to address individual district problems. Specifics on this process and suggested materials are included in Section III: THE INDIVIDUAL COUNTY PLAN.

V. Conclusions

In order to provide timely and meaningful inservices for administrative teams, needs assessment analyses were conducted to determine general administrative problem areas which school districts faced in providing effective special education services. Additionally, individual county needs assessment data revealed that school districts in West Virginia possess unique strengths and weaknesses in delivery of service to exceptional children. Specific county needs assessment profiles were used as the bases for developing individual change infusion strategies for resolving administrative problems in special education programming.

SECTION II: ADMINISTRATIVE CHALLENGES FOR REACHING EDUCATIONAL EXCELLENCE: GENERAL WORKSHOP DESIGN AND TRAINING MANUALS

Introduction . . . . Marta A. Roth

Fictitious Frustrations: The Comical Complexities of Team Cooperation and A Celebration of Outstanding Accomplishments . . . . Marta A. Roth

Communication/Coordination:
The Legal Process . . . . John Andes

Communication/Coordination:
The Referral Process . . . . Annette U. Shuck

Planning/Budgeting:
Where's the Bucks? . . . . Barbara C. Ritchie

Facilities/Transportation/Equipment:
Buildings, Buses, & Barriers . . . . H. Edward Lilley

INTRODUCTION

Administrative Challenges for Reaching Educational Excellence

by

Marta A. Roth, Research Associate
Educational Administration and Project Coordinator

To make special education programs an integral part of the public school requires an administrative team effort and the commitment of key policy developers and decision makers. Project participants which included superintendents, boards of education, principals and central office staff, must understand the intended aims and ramifications of the law and exhibit positive attitudes so that policies and resource allocations result in appropriate support and decisions for the education of handicapped students. Toward this end, an administrative team communication approach was the focus of the general workshop content.

The first selected activity required audience participation in role play which depicts the interactions of the administrative team. The situation represents communication barriers or as the title describes "Fictitious Frustrations: The Comical Complexities of Team Cooperation." The group analysis of the activity raises awareness of hidden agendas, as well as, encouraging participants to laugh at their communication processes in a light manner. Debriefing permits an in-depth analysis of the importance of team cooperation in resolving complex issues. Participants enjoyed this activity and in most all evaluations awarded this simulation as being the most valuable workshop experience. To further support the effectiveness of role play, the research on "The Effect of Role-Playing Experience on Role-Playing Ability" (Mann, John and Carola, 1959) presented the following conclusions:

1) role playing improves future enactment of the role actually practiced,

2) role playing improves future role playing,

3) role playing improves the enactment of other roles.

A second activity described in this manual served a two-fold purpose. Recognizing the positive gains made by school districts and providing an opportunity to share promising practices were major objectives for the session entitled "A Celebration of Outstanding Accomplishments." Team identity, recognition of the various role groups' contributions to successful programming, and the communication of knowledge and attitudes to enhance services for exceptional children, were outcomes of this activity. The positive focus of this interactive technique also promoted a cooperative sharing atmosphere that carried over to specific problem resolution activities in other sessions.

Communication and coordination are crucial in dealing with issues that school districts face in providing services for exceptional children. "Communication/Coordination: The Legal Process" and "Communication/ Coordination: The Referral Process," assist participants in developing and applying models for decision making and resolving issues in these two high-priority areas.

Since most districts reported that monetary and budget concerns were primary to effective special education programs, a session "Planning/Budgeting: Where's the Bucks?" was included for the major purpose of informing team participants of funding sources, criteria for use, and creative methods for sharing resources to benefit all programs. In order to plan, allocate, and evaluate budget matters efficiently and effectively, communication and coordination should be maximized.

The final general workshop session entitled "Facilities/Transportation/Equipment: Buildings, Buses, & Barriers" was included to address a high priority need expressed by over 85% of the districts surveyed. Again, team communication and cooperation were stressed through evaluating, increasing awareness, and prioritizing facility, transportation and equipment needs, by the representatives of the various hierarchical positions within the district. Between district exchanges were intended to promote the use of creative solutions and positive approaches to resolving space and facility issues.

Each of the general workshop sessions contained in the following section provides directions to trainers and materials for use with administrative teams. A suggested agenda is included to designate time and order of presentations. The team model was intended to promote an awareness of issues through the development and use of decision making systems which requires increased communication and coordination between the various administrative leaders in school districts. This inservicing design highlights the importance of participative team management in improving service delivery to special students.

(Suggested Agenda)

SPECIAL EDUCATION ADMINISTRATION DEAN'S GRANT WORKSHOP

A. Theme: Beyond Special Education Compliance: ADMINISTRATIVE CHALLENGES FOR REACHING EDUCATIONAL EXCELLENCE

B. Purpose: To present a training program for teams of superintendents, board members, special education directors and principals in representative administrative functions so as to build a sufficient knowledge and attitudinal base and managerial plan for improving and the delivery of special education services at the central and school level of administration.

C. Agenda:

Thursday

Time	Activity/Session	Room	Presenter (s)
Optional 3:00-4:00	Independent Resource Rooms		
	"See Me As Me" Video	107	
	"A Different Approach" film	103	
	"P.L. 94-142" filmstrip	106	
5:00 - 5:30 p.m.	Welcome/Workshop Objectives	C-D	
5:30 - 6:30 p.m.	Individual County Profiles (ICP Session A)		
	County Team	VIP (Left)	
	County Team	103	
	County Team	106	
	County Team	107	
	County Team	VIP (Right)	
6:30 - 7:00 p.m.	Cocktail/Cash Bar	B	
7:00 - 8:00 p.m.	Dinner by Role Groups	B	
8:00 - 8:30 p.m.	"Fictitious Frustrations: The Comical Complexities of Team Cooperation"	B	
8:30 - 9:00 p.m.	"A Celebration of Outstanding Accomplishments"	B	
9:00 p.m.	Social	VIP (Left & Right)	

Friday

Time	Activity/Session	Room	Presenter (s)
8:00 a.m.	Buffet/Working Breakfast	C-D	
8:30 - 9:20 a.m.	"Communication/Coordination: The Legal Process"	C-D	
9:20 - 9:30 a.m.	County Team Discussions		
9:30 - 9:35 a.m.	Break		
9:35 - 10:25 a.m.	"Communication/Coordination: The Referral Process"	C-D	
10:25 - 10:35 a.m.	County Team Discussions		
10:35 - 10:50 a.m.	Break (15 minutes)		
10:50 - 11:40 a.m.	"Planning/Budgeting: Where's the Bucks?"	C-D	
11:40 - 11:50 a.m.	County Team Discussions		
11:50 - 12:00 a.m.	Break (Check out)		
12:00 - 1:00 p.m.	Lunch by Teams with County Consultants	B	
1:15 - 2:05 p.m.	"Facilities/Transportation/Equipment: Buildings, Buses, & Barriers"	C-D	
2:05 - 2:15 p.m.	County Team Discussions		
2:15 - 2:20 p.m.	Break		
2:20 - 4:00 p.m.	Individual County Plan (ICP Session B)	C-D	
	County Team County Team County Team County Team County Team		
4:00 p.m.	The Next Step Beyond Compliance/Workshop Evaluation	C-D	

FICTITIOUS FRUSTRATIONS: THE COMICAL COMPLEXITIES OF TEAM COOPERATION

and

A CELEBRATION OF OUTSTANDING ACCOMPLISHMENTS

"FICTITIOUS FRUSTRATIONS: THE COMICAL COMPLEXITIES OF TEAM COOPERATION" & "A CELEBRATION OF OUTSTANDING ACCOMPLISHMENTS"

Session Objectives:

1. To point out and provide an outlet for the many frustrations that are encountered in providing special education service delivery;

2. To demonstrate the many obstacles which interfere with team cooperation and problem resolution;

3. To identify those obstacles and be able to bring them into the open to facilitate communications between team members;

   and

4. To recognize the many outstanding accomplishments that county districts have achieved to set the tone of the workshop off onto a positive note.

Workshop Outline

Content Outline for Trainer (Estimated Presentation Time when combined with social activity such as a dinner: 2 hours)

I. Advanced preparation of seating area and debriefing of staff consultants

II. Introduction to the Role Play

III. Debriefing the Role Play

IV. Closing the Role Play

V. Introducing the Celebration

VI. District Sharing and Toasting of Outstanding Accomplishments

VII. The Summary and Close

I. Advanced preparation of seating area and debriefing of staff consultants

A. Have five (5) areas designated in a large room for each of the positions represented in the role play. Circular tables for a social situation such as dinner by role groups has worked well for this activity. Place the "setting" card at each table setting.* If members of the group do not know each other, the setting card can not only provide them with something to do prior to the serving of the meal but also will stimulate conversation.

B. Each role group should be provided assistance by a member of the staff who is knowledgeable about the role play setting, characters and processes. (See Attached Assignments and Procedures)

II. Introduction to the Role Play

A. Check with each staff member in charge of each position and make sure that each group has selected a person so play the character. At the head of the room, have a pre-set table with five (5) chairs and a name card for each character. Begin the role play by asking each character to come to the front of the room and have a seat at the appropriate chair.

B. The session leader introduces each character and welcomes the audience to the special session. At this time the setting card can be read by the session leader to refresh the audience as to the issue at hand. The meeting is then turned over to the superintendent who has instructions of the character card to have each member introduce themselves and provide the audience with a brief summary as to their background.

C. Allow the group to improvise for about 15-20 minutes depending on the interactions that have taken place. Cut the role play at a point where enough of the hidden agendas have surfaced and the group is in the height of conflict. At this point, encourage the audience to applaud the individuals who participated in the role play. Then begin the debriefing.

*Laminating the cards will permit reuse

III. Debriefing the Role Play

A. You may begin with the statement of purpose such as this:

> The primary purpose of this exercise was to point out the many frustrations that we all encounter in dealing with the complexities of providing educational programming. A secondary purpose was to demonstrate the many obstacles which interfere with team cooperation and problem resolution.
>
> Although we have made light of the serious issues which face us as educators, administrators, and governing boards through our canned characterizations, we hope that this fictitious role play has not only served to stimulate our thinking about how to resolve problems but has also served to make us more aware of the competing values and expectations which interfere with team cooperation.
>
> Through our discussion and analysis of what happened during the role play, we may be able to identify those obstacles and perhaps be able to bring them into the open to facilitate communications between team members.

B. Begin questions to stimulate discussion by directing them to audience members as well as individual role play participants.

1. What do you think were the hidden agendas (individual values or needs for each of the characters?
    - A. the Principal (Frances Firm)
    - B. the Superintendent (Blair Basic)
    - C. the Parent (Caroll Cause)
    - D. the Board Member (Billy Brook)
    - E. the Director of Sp. Ed. (Lee Long)

2. How did these individual values or needs interfere with the communication process?
3. What other barriers can be identified that hindered the resolution to the problem?
4. How could they have been avoided? By Position.
5. How did the role participants feel in the situation?
6. What emerged as "real" about each role?
7. What other alternatives to resolving the problem were omitted from the role play that we may discuss here? How would you have solved the problem?

Here's how the Dean's Grant Staff would have solved the issue...

Director of Sp. Ed. is calling Superintendent with good news...

To provide levity, the session leader, playing LEE LONG the Director of Sp. Ed., (using a telephone) dials Superintendent and informs him/her that the Cause family has moved--that a request for transfer of records has come to the director's attention--and that it is ____________________ district (name a district in attendance).

IV. Closing the Role Play

Have role play participants along with audience take a stretch break by moving to tables now by district teams for the next activity. Staff consultants can assist in directing teams to the designated tables.

V. Introducing the Celebration

A. After the workshop participants have regrouped into district teams, give them the assignment of discussing and deciding on an outstanding accomplishment that their district has had in the delivery of special education (encourage personal stories). Give the groups about 10-15 minutes of discussion time. Staff consultants may assist.

B. Prepare for toasting each district by having champagne or punch poured at this time.

VI. District Sharing and Toasting of Outstanding Accomplishments

The session leader calls on each district team in attendance. After each sharing session, encourage applause and a toast to the district.

VII. While this activity has been used most often to open the first half day of the 1 and 1/2 day workshop, it can be used as a closing activity. Depending on the placement of this activity, the session leader can provide the appropriate summary and/or close.

DINNER BY ROLE GROUP AND FICTITIOUS FRUSTRATION ACTIVITY

ASSIGNMENTS AND PROCEDURES

Staff Consultants

I. Assignments: The following are staff assignments for the Dinner by Role Group and Fictitious Frustration activity:

Staff Name: Assignment
__________/Elementary Principals' Table with character of Parent
__________/Sec. Principals' Table with Principal character
__________/Board Members' Table with Board character
__________/Sp. Ed. Directors' Table with Sp. Ed. Director character
__________/Superintendents' Table with Superintendent character

II. Procedures: The following are the steps in order of occurrence of the dinner and role play activity. Specific responsibilities of staff facilitators are starred (*):

*A. At 7:00 p.m. please encourage your role group to have a seat at the designated table area. (They will be marked with cards.) If participants are subbing for one of the five role groups, have them sit at the role table for which they are subbing.

*B. Each table setting will have an issue card with directions. Please encourage your role group to read the issue card and identify the character that corresponds to their role group, preferably before the serving of dinner. If time permits, you may want to pass out the character cards at this time. (You will be given these cards during the cocktail social and should hold them until participants have read the issue cards.)

*C. Through the process of dinner, if you didn't introduce the character cards before, select a time to distribute the character cards to the role group. The Session Leader will periodically check on the progress of each role group and remind your team if necessary. By dessert your role group should have selected a person to participate in the role play and/or modify the character as per the instructions on the issue cards.

D. After dinner (during coffee) the Session Leader will check to see if the groups are ready. Members of the role play shall sit at the head table with name cards for their character. The Session Leader shall announce the beginning of the role play and prepare the audience.

E. The role play will be cut at the height of conflict and debriefing period will begin with questions first directed to the audience and then members of the role group. Final questions will lead into the canned ending.

(Dinner by Role Group and Fictitious Frustration Activity - Assignments and Procedures, Continued)

*F. The audience will be encouraged to applaud the role-play participants at which time instructions shall be given to form county teams at each of the tables. Please collect all issue and character cards and return to the Session Leader.

*G. The Session Leader shall lead groups in discussing their outstanding accomplishments. Consultants should facilitate the assignments. Toasting and "rap-up" by 9:00 p.m.

THE SETTING CARD

"Fictitious Frustrations: The Comical Complexities of Team Cooperation"

Directions: Please read over the issue which is before the standing committee in the Dry Run School District.

Your group will be given 1 of the 5 characters to role play after dinner. Each group will be given a brief background of the character and a description of a hidden agenda which they will bring to the meeting.

Assignment: After all members of your group have read the characterization of each role and their hidden agendas:

1. rework, if you like, the characterization that has been presented but remember that any hidden agenda should be exposed as indirectly as possible through your dialogue at the meeting.
2. select a member of your group to participate in the role play.

DRY RUN SCHOOL DISTRICT

A standing committee of the Dry Run School District has been called together to discuss the following issue regarding Claud Cause a 10th grader at Arid High School.

Issue: The Cause family recently moved into Dry Run School District. Claud has been previously diagnosed as learning disabled, had extensive medical and neurological workups at Johns Hopkins Medical Center, and had an extremely detailed individual educational plan (IEP) which specified that he receive visual motor integration training for 3 days a week for 20 minutes a day in a swimming pool. Dry Run School District has no swimming pool in any of their facilities. The parent has repeatedly requested that the IEP be implemented and has threatened to request a due process hearing if the swimming training is not provided in 2 weeks. The standing committee has been brought together to discuss the matter with the parent. The parent has invited a newly elected Board of Education Member, Billy Brook, to accompany the parent to the meeting. The others are unaware that the Board Member plans to attend.

Characters:		
	PARENT:	CAROLL CAUSE
	BOARD MEMBER:	BILLY BROOK
	SUPERINTENDENT:	BLAIR BASIC
	DIRECTOR OF SP. ED.	LEE LONG
	PRINCIPAL:	FRANCES FIRM

Superintendent: BLAIR BASIC

This is your 4th year as superintendent of Dry Run School District. As a result of the June election, you have 2 new members on the Board of Education and you're unsure of their support for the administration. Strongly emphasized in your opening message to the district personnel and members of the community was your 84-85 goal of "Back to the Basics." Included in this well publicized speech was your directive to prioritize funding for academic purposes. In fact, you have been promising principals and teaching personnel an increase in classroom resources for the 84-85 school year. Solving the issue as quickly as possible and avoiding a due process hearing is your goal. You suggest such things as sending Claud to private school.

Hidden Agenda:

Although you prefer not to operate in the political arena, you realize that pleasing the board, especially the new members is part of this issue. You are aware that Billy Brook is a noted sports hero in the community. Showcasing the pool may be a way to gain the board's support. You move back and forth trying to decide whether supporting the pool will affect your "Back to Basics" stance with the personnel in the district and other members of the board who have fought for improvements in the academic program. Having a pool in one of your facilities, however, would be a first in the tri district area.

Your relationship with Lee Long the Director of Special Education has been somewhat distant. Lee has handled almost all issues relating to the special education program and has provided thorough information for your recommendations in the past. Lee has been in charge of the budgeting aspects of special education and programming for over 12 years and you have found that the "hands off" approach to working with Lee has been the best.

Since Frances Firm has been a life-long resident of Dry Run and the principal of Arid High for 18 years, you often look to Frances for input. You are charged with beginning the meeting by having each person introduce themselves with background information.

Board Member: BILLY BROOK

This is the first year of service on the Board of Education. You were elected to your position because you supported many interest groups concerned with maintaining present services that were under the threat of cuts. You are a sympathetic person who wants to please all and who has ultimate interests in bettering education for all students. You have limited experience, however, in the area of special education but are willing to learn.

Hidden Agenda:

Dry Run Community has no swimming facility. The community has through the years attempted to raise funds for such a project but it has never been realized. Since you are an ex-olympic swimmer with trophies that line the walls of your den not only in swimming and diving but also a number of other sports, your personal interest in getting the pool for the district are strong. In fact, they may even name the pool in your honor. Besides, it might be nice to have a pool in the high school since your daughter is in the 10th grade. Your only concern is that your son-in-law is a partner in "Pools Unlimited" and you are aware of possible legal ramifications with conflict of interest.

You are somewhat angry that the superintendent hasn't kept you informed of this issue.

Director of Special Education: LEE LONG

You have been the director of special education in Dry Run School District for 12 years and have seen the tremendous growth in programs for exceptional children since the inception of P.L. 94-142. You have held this position because of your caring and knowledge of special children and the law. You want to do the right thing.

Hidden Agenda:

Because of your longivity in the director's position you have been able to operate the special education program pretty much as your own with little interference from the superintendent. In fact, you are somewhat dismayed that the superintendent has been brought into this issue and resent that the pool might be showcased for Board support and superintendent security. In addition, the budget for special education, primarily under your control, has been prioritized with emphasis on resources for classroom improvements as per the superintendent's beginning of school goals. You need to remind the superintendent of this and how your staff will respond to this shift. The pool issue is perceived as a waste of time since other issues are more pressing.

On the other hand, you have seen superintendents come and go and know that Board support for special education would be of benefit for future programming. You are aware of some other exceptional students in the district who may also benefit from the pool. Everyone else may use it though.

The law does stipulate, however, that the IEP be implemented. Challenging a diagnosis and prescription from Johns Hopkins Medical Center would not only cost time and money but in your opinion would create more "parent power" for future unreasonable demands such as this.

You also have a history of "power plays" with Frances Firm the principal of Arid High School since Frances has been in the district longer than you. In recent years though, you have made headway in your working relationship with Frances and you don't want to do anything that might jeopardize the gains that you have made. A strong direct stand with Frances has been a successful way to deal with issues in the past.

Your goal in this meeting is not to come to any decision but to use your special education expertise and hidden agenda items to create discussion among the other members. Remember, use your knowledge of the issue to object to any alternative which is brought up but NO CLOSURE, PLEASE!

Principal: FRANCES FIRM

You have been principal of Arid High School for 18 years and are content in your present position. You are known to be a strict disciplinarian who operates the school by policy and procedures. You are a strong advocate for school and community loyality and autonomy.

Hidden Agenda:

By putting a pool in Arid High School, you are concerned that the school will become a center for all special education students. This may not only present a legal hazard but also may mean increasing your responsibilities and giving up something that the school now provides. Besides, you didn't have a pool when you went to school!

You resent that large amounts of money go to special education via the law and press for the rights of the regular education students. In fact, you have stood your ground with Lee Long, the Director of Special Education and believe that it is your building and you don't like to be told what to do.

You not only have more years experience than the superintendent but also hold a doctorate in educational administration and are appreciative of needed Board support. You and Billy Brook, the Board member, are the only life long residents of Dry Run. You perceive the parent as an outsider who has come to take monies away from the new "Back to Basics" improvement for regular education.

Parent: CAROLL CAUSE

You are familiar with P.L. 94-142 and the State Regulations. You have been an advocate for the handicapped children in your previous place of residence and were responsible for organizing a parent training and support network in your community. In recent years, you have made it your personal "cause" to fight for better programming for your son. You feel that advocating for his education will help better programs for all exceptional children. Getting a pool in Dry Run School District will benefit other exceptional children in the community and, if successful, you intend to put pressure on the district administration concerning other out of compliance issues. Advocating for your son's education and for improvements for other handicapped children makes you feel less guilty about your son's disability. Other parents have recognized you as a leader in this regard.

Claud is a very clumsy child in all sporting areas. You have worked to get him on sports teams but feel very frustrated that all your efforts have done little to show improvements. You strongly believe that the medical diagnosis and prescription for visual motor integration training will help him and others in Dry Run with similar problems. You have no hidden agenda.

COMMUNICATION/COORDINATION: THE LEGAL PROCESS

Communication/Coordination: The Legal Process

Session Objectives

1. To enhance awareness of the consequences of specific special education student cases/hearings
2. To develop awareness of the legal approach to educational activities
3. To consider the many sources of assistance and information in the district and communication patterns to secure the information on specific special education cases
4. To keep in focus the desired educational outcome in a complex legal proceding
5. To develop awareness of the legal requirements for handicapping conditions

Workshop Outline

Content Outline for Trainer (Estimated Presentation Time: 55 min.)

I. Introduction and overview

II. Hearings and Court Cases

  A. Analysis of hearings and court cases - Individual work

  B. Handouts on three hearings

    1.
    2.
    3.

  C. Handouts on three cases

    1.
    2.
    3.

  D. Handout on how to analyze hearings/cases

  E. Debriefing on hearings/cases - Group Activity

    Discussion of Analysis sheets
    Discussion of legal outcome in actual case

  F. Handouts of actual hearings/cases

  G. Handout on So You're Going to Hearing

III. Why go to a hearing or court - Prevention

I. Introduction and Overview

A. As administrators, we tend to see special education situations as problems.

Need to see each situation as a valuable individual.

What if the student were your child?

B. We tend to fear hearings, court cases, procedural due process
It interferes with our work
Cases and Hearings will increase
We need to see how they work and how we can accomplish
educational objectives through them

C. I am handing out three (3) abstracts of court cases and three (3) abstracts of hearing examiner reports on special education situations along with six (6) Analysis sheets. Each district team member should take a different case or hearing and, using the Analysis sheet, answer the following five questions for your case or hearing.

1. What is the central/main problem presented in the case (hearing)?
2. What do I want the outcome of the case (hearing) to be?
3. What should be the school district's position on the case (hearing)?
4. What does the school district need to know?
   Who should provide the data?
5. What do I need to do to prepare for the case (hearing)?

After fifteen minutes, we will resume as a group and discuss each case and hearing. If you finish your case or hearing before the time, read as many of the others as you can.

(Estimated time: 15 minutes)

II. Hearings and Court Cases

A. Individual work on cases/hearings using the Analysis sheet

Leader circulates among participants providing individual assistance and answering questions.

(Estimated time: 15 minutes)

(Leader must have studied each case and hearing in detail and completed an Analysis sheet on each.)

B. Group Session

Time is up, let's come back together.
Everyone turn to Hearing #1 and let's discuss it.
Who did this hearing?

Ask and discuss questions 1, 3, 4, 5. Describe decision in real case.

(Estimated time for each question: 4 - 6 minutes)

Repeat for each hearing and case.

The actual cases and hearings are printed in full text and available at the rear of the room.

An excellent publication is also available: Bateman, B. (1980) So You're Going to Hearing. Northbrook, IL: Hubbard.

(If time does not allow discussion of all, summarize the last case or two.)

(Estimated total time: 30 minutes)

III. Why Go to A Hearing - Presentation

Why allow a situation to go to a hearing or court?
May be only way to solve it.

Most of the time it will be more educationally sound to present the confrontation.

Go back to Hearing #1

Should it have been presented?
What could/should the district have done?

Would that have been a better educational outcome?

Repeat the last three questions for Hearing #2

Thanks for your time and interest. The real problem is to see and apply what you have just said before the confrontation. Best of Luck.

(Estimated time: 5 minutes)

Due Process Hearing # 1

ISSUE IN CONTENTION

The issue in contention for the due process hearing regarding an 18 year old student, is whether her classification as a behavior disordered student and her placement in the behavior disordered intensive service unit at __________High School are appropriate to meet her needs as a special education student. This classification and placement were proposed by the _____________County Schools at a Placement Advisory Committee (PAC) on February 19, 1982.

The parents content that their daughter's primary handicapping condition is learning disabilities and that behavior disorders is her second handicapping condition. They further contend that she is eligible for out-of-state placement at _____College Preparatory School, since she has two handicapping conditions and since no appropriate placement is available in _________County or the State of West Virginia.

The parents objected to the classification and placement in the behavior disordered intensive service unit and refused the placement on February 24, 1982. The child was placed on Home/Hospital Instruction and also received Language Therapy for the remainder of the school year. She has earned enough credits to graduate from _________High School. Her diploma was held pending the outcome of this Hearing, since the parents contend that her special education needs have not been met. Her placement at the time of request for the hearing was Home/Hospital Instruction with Language Therapy. No handicapping condition was specified, although the child received Speech-Language Therapy as a related service.

Due Process Hearing #2

ISSUE IN CONTENTION

The issue of the hearing is that of a free appropriate public education for ______________. Mr. and Mrs. ____________ contend that the present transportational service is inadequate resulting in an instructional day that is less than the required minimal instructional day. The ___________ County Board of Education contends that the quality of the present educational services are such that the current quantity of service is adequate and appropriate.

___________ is a fifth grade student identified as appropriately placed in a self contained Behavioral Disorders class with additional instructional services from a specific learning disabilities teacher.
State Board Policy #2441 defines the minimum length of the instructional day for ____________'s grade placement to be 345 minutes, exclusive of lunch.
_____________'s instructional day is from 8:30 to 1:45 and attends a school out of his home district and requires special transportation.

Due Process Hearing # 3

ISSUE IN CONTENTION

___________ is a gifted youngster. He was administered a WISC on June 14, 1974 at the age of 5 years, 9 months. His scores were Verbal 139 Performance 118, Full Scale 132. Both parties to this hearing agree that he is gifted. He participated in the ________ Gifted Program 140 minutes per week and this program is acceptable to both parties.

Mr. and Mrs. __________ do not feel that the regular third grade program at __________ Elementary School is appropriate for their son. His third grade teacher testified that there is no written individualized educational plan(IEP) for the child. Also, there is no acceleration of subject matter other than some enrichment activities which involve working with fourth grade materials.

The ___________ School District feels that because of the assignment of _____ to the Gifted Program along with the math enrichment and regular basic education programs, he is receiving an appropriate education.

The parents feel he is not progressing at a rate consistent with his potential. They would like acceleration of subject matter, a "full-blown education evaluation," an "Individually adopted educational program to be examined by the parents for their approval or disapproval," " a mandated implementation of the program," and"frequent conferences with the parents to discuss the implementation of an adequate educational program."

CASE #1-T.G. and P.G., Individually, and on Behalf of their
Infant Child, "D.G." Plaintiffs,

v.

BOARD OF EDUCATION OF PISCATAWAY, N.J., and the
Community Mental Health Center of Rutgers Medical
School, Defendents

v.

PRUDENTIAL INSURANCE COMPANY OF AMERICA, INC., and
Blue Cross/Blue Shield, Third-Party Defendents.

This matter arises under the Education For All Handicapped Children Act, 20 U.S.C.§ 1401 et seq. (the Act). Plaintiff D.G. is an eleven-year-old boy who was classified as emotionally distrubed by the Child Study Team (CST) of the defendant Board of Education of Piscataway (Board). D.G. and his parent T.G. and P.G. commenced this action on November 22, 1982, seeking to have the defendant Board pay the principal charges plus any interest due and owing to the defendant Community Mental Health Center of the Rutgers Medical School for "psychotherapy" services allegedly provided as part of plaintiff D.G.'s Individualized Education Plan (IEP) developed by CST. The defendant Community Mental Health Center has counter-claimed for the amount due and owing, cross-claimed for same against the defendant Board, and impleaded the Prudential Insurance Company of America, Blue Cross of New Jersey, and Blue Shield of New Jersey, all of whom are plaintiff T.G.'s health insurance carriers.

The undisputed facts relevant to this motion are as follows: Pursuant to the requirements of the Act, the Child Study Team of the defendant Board carefully evaluated plaintiff D.G.'s condition and as a result classified him as emotionally disturbed. Following discussion with D.G.'s parents, the CST recommended that D.G. be placed in a therapeutic environment in order to maximize the benefits he receive. Specifically, the Child Study Team's IEP recommended that D.G. "[b]e provided with a totally therapeutic environment in a special education day school for the Emotionally Disturbed that will provide him with the controls and individual attention necessary for his social and emotional development. This is viewed as the least restrictive environment to meet his needs." It was agreed upon between the defendant Board and D.G.'s parents that the child would be placed in the Child Day Hospital of the Community Mental Health Center of the Rutgers Medical School, University of Medicine and Dentistry of New Jersey. This placement commenced on September 30, 1980.

The Child Day Hospital is a specialized treatment program for seriously emotionally impaired children. As such, the Hospital provides, in its own words, "individual child psychotherapy, family therapy, and a broad spectrum of milieu therapy on an integrated, intensive basis." Educational services are also provided in an effort to enhance learning by each of the children involved while they are in therapy. When D.G.'s parents placed him in the Child Day Hospital they were told that the program required without exception that every child participate in the "therapeutic treatment" portion of the day program.

D.G. remained at the Hospital until January 20, 1982, when, due to the success of the Hospital's program, he was able to return to his local school. The program at the Hospital had consisted of individual child psychotherapy two days a week, family therapy with the parents, and with or without the child, weekly or as indicated, mileau therapy on a daily basis, including therapeutic activity group, individual and group counseling and behavior modification, we well as special education on a daily basis in self-contained and departmentalized classes.

CASE #1

On October 24, 1980, plaintiffs T.G. and P.G. were informed by the Community Mental Health Center that the psychotherapy provided D.G. as part of the Hospital's program would be assessed to them, and not to the school district, and that it would be charged at a rate of $45.00 per day. The Center has to date received no payments for these charges, which at the time of D.G.'s discharge had grown to a total of $25,200.00.

In 1982 the parents sought to have the Board take responsibility for the cost of the psychotherapy. The Board refused to do so, giving the parents three reasons for its decision. First, it was suggested that psychotherapy was not part of the IEP agreed to by both the Board and the parents. Second, it pointed to the fact that the New Jersey Department of Education had issued a policy statement to the effect that "psychotherapy" other than that necessary for diagnostic and evaluative purposes, as not a "related service" for which a local school district would be responsible under the mandate of the Act. Finally, the defendant Board took the position that nothing else in the Act or its implementing regulations required it to pay for this service. Plaintiffs then as now responded that psychotherapy is a "related service" within the meaning of the Act, and that in any event it was an integral and, in fact, required part of the Independent Education Program agreed upon by the defendant Board, the cost of which should be borne by the Board.

CASE # 2-Andrew and Rita AHERN on their own behalf and as parents of ALICIA AHERN, plantiff

v.

William KEENE, State Superintendent, The STATE BOARD of Education, Dr. Frank FURGELE, Superintendent of Brandywine School District, and the Brandywine SCHOOL BOARD, defendants

Alicia Ahern, born on December 28, 1964, is mentally handicapped and diagnosed as having Down's Syndrome, congenital heart abnormalities, a slight hearing loss in one ear, and problems with speech and visual acuity. Alicia has an I.Q. level of 44, which places her in the upper segment of the trainable mentally handicapped category.

In 1969 Alicia entered the Bush School and remained there until the end of the 1978-79 academic year. School officials testified at the due process hearing that Alicia's experience at Bush was marked by successful educational progress. An April 20, 1978, evaluation by Dr. Barbara Coleman, a psychologist for the School District, reported that Alicia's scores on the Wide Range Achievement Test "reflect educational skills highly commensurate with mental ability; i.e. Alicia is apparently achieving up to her presently estimated mental capabilities." Alicia was able to read and spell words at approximately a 2.5 grade level, while her math skills were at first grade level. Based on Alicia's low I.Q., Dr. Coleman interpreted the achievement test scores to indicate that Alicia was "putting forth a good effort in the classroom. She's taking advantage of what is being offered to her in the classroom." Alicia's social self-help skills were at a 9 year old level and represented a "definite strength" in her overall learning experience. Alicia could care for herself at the table, write occasional short letters, make telephone calls and do remunerative work. She had not, however, developed to the point where she could be left alone to care for herself. Overall, Alicia's skills placed her in the upper half of the population at Bush.

Although the Aherns were satisfied with Alicia's academic progress at Bush, they became increasingly concerned about her emotional stability and social development. Beginning in 1975, the family noticed that Alicia talked to herself. As she approached adolescence Alicia's behavior at home and in the neighborhood apparently deteriorated. In addition to talking loudly to herself and to imaginary friends, Alicia withdrew into a fantasy world when moderately stressed, wandered away from home, talked to strangers, occasionally related in a bizarre and inappropriate manner, and twirled herself around in circles on sidewalks near her home and at shopping malls. In the spring of 1979, these episodes led the Aherns to Delaware Guidance Services for Children and Youth, Inc.

Dr. Henry G. Berger, a psychiatrist affiliated with Delaware Guidance, first examined Alicia in July 1979, and reported that Alicia exhibited no signs of severe depression or psychosis. He stated that she used "borderline psychotic defenses of withdrawal into fantasy"in order to "deal with the stress of adolescence." Explaining that Alicia's problems could be traced to her home environment, which only had a "limited capacity" to "engage Alicia emotionally." Dr. Berger believed that Alicia needed more peer interaction and stimulation after the school day ended. According to Dr. Berger, a residential program geared to meeting her emotional and vocational needs was "imperative." At the due process hearing, Dr. Berger elaborated on his recommendations explaining that residential placement was necessary because Alicia had a tenuous grasp on reality and needed a constant, safe, supportive environment "in order to learn to cope...with the world around her in a more successful and competent manner."

School officials were cognizant of the emotional difficulties described by the doctor. Dr. Coleman in her 1978 report observed that Alicia was "highly distractible and inattentive." Similarly, the principal, Linda Mazepink, wrote in a May 29, 1979 letter to the Coordinator of Clinical Services for Delaware Guidance, that Alicia's academic progress indeed was "hindered by anxiety and a lack of confidence. Her day-dreaming and fantasizing are also deterrents to her learning. Alicia, in many cases, does not seek challenges and has a short attention span." Linda Mazepink qualified her observations by explaining that Alicia's learning difficulties had been discussed with Mrs. Ahern during numerous conferences and were being addressed in Alicia's IEP. "If this were not the case,"Mrs. Mazepink, explained, "we too would be concerned about our ability to meet her educational needs."

One of Alicia's teachers at Bush, corroborated Mrs. Mazepink's evaluation. The teacher testified that Alicia's fantasizing presented occasional problems, usually in the hallways and at lunch, but that at most times was under control. Alicia's emotional problems, explained the teacher, "really didn't present a problem in the classroom" and did not interfere with her learning. In fact, during the time Alicia presented the most difficulty for her parents at home, she was described by the teacher as motivated, anxious to learn and very cooperative.

School officials testified that Alicia's particular social and emotional problems were not uncommon among students at Bush. Specific programming, not previously available in 1978-79, has been developed to meet those needs.

As previously noted, despite numerous conferences with school personnel, the Aherns in September, 1979, enrolled Alicia in a residential program at Benedictine. Recent achievement scores reveal some progress in reading, mathematics, and language skills. Alicia's social and emotional skills, however, have improved significantly. Follow-up reports indicate that the structured program at Benedictine has helped Alicia to express herself in a more mature manner and has reduced her inappropriate behavior. In the 1981 report, Dr. Berger testified that Alicia showed marked changes and improvment, suggesting "better judgement, better competence and increased ability to handle difficulties...in a more realistic and appropriate manner." Two other doctors also agreed with Dr. Berger, that Alicia needs continued structure and support and should not be removed from Benedictine.

The Ahern's have challenged the due process and state hearing officer's decision to deny tuition funding for residential placement.

CASE #3- Deborah BROOKHART, et al.

v.

ILLINOIS STATE BOARD OF EDUCATION

Plaintiffs are eleven handicapped students with varying disabilities who are challenging a Peoria School District requirement that they pass a "Minimal Competency Test? (MCT) in order to receive a high school diploma. After a hearing, the Illinois State Board of Education issued an Administrative Order The findings are as follows:

1. The State Board of Education has jurisdiction of this matter.
2. The Peoria Board of Education has the right to impose reasonable additional standards for graduation with a regular high school diploma.
3. Neither the Education for All Handicapped Children Act nor Section 504 of the Rehabilitation Act prohibit local school districts from requiring that exceptional students meet all otherwise reasonable standards for graduation including a MCT.
4. Federal law requires that school districts make reasonable modifications to test such as the MCT in order to minimize the effect of an individual student's handicapping condition.
5. Peoria District violated the "due process" rights of the petitioners by failing to give them adequate and timely notice that the MCT would be a prerequisite to the receipt of a diploma.

An appeal by plaintiffs and the Peoria School District was taken to the district court which held that there was no due process violation and reversed the order directing the school district to issue diplomas.

In the spring of 1978, the School District decided to require all students eligible for graduation in the spring of 1980 to pass an MCT as a prerequisite to receipt of a diploma. The test is given each semester. It contains three parts - reading, language arts, and mathematics - and a student must score 70% on each part in order to receive a diploma. If a student fails any particular part, he is eligible to retake that part until he passes or becomes 21 years of age. Refresher courses are available during the school term and over the summer, though the summer program was on a tuition basis and scheduling problems made it impossible for a student to attend refresher courses in all three areas. Student who do not pass, but otherwise qualify for graduation, receive a Certificate of Program Completion at graduation time, and may continue to take the MCT until age 21.

After the MCT policy was adopted in 1978, the School District undertook to notify students of the additional requirement through distribution of circulars in the schools, individual mailings to some parents, and repeated announcements in the mass media. The State Board said in its Administrative Order that "the record does not clearly establish how well these efforts succeeded, and in particular does not establish that they were adequate to bring notice of the additional requirement with all of its possible consequences to the attention of the parents of the exceptional children involved in these complaints." While apparently accepting this finding, the district court said that "there is neither evidence nor contention that any plaintiff here did not know of the graduation requirement of passing the MCT more than a year before his or her scheduled graduation."

The case was further appealed by plaintiffs to the U.S. Court of Appeals.

case #_____

hearing #_____

ANALYSIS SHEET

1. What is the central/main problem presented in the case (hearing)?

2. What do I want the outcome of the case (hearing) to be?

3. What should be the school district's position on the case (hearing)?

4.

What does the school district need to know?	Who should provide the data?

5. What do I need to do to prepare for the case (hearing)?

D.P.H. # 1

REPORT OF THE DUE PROCESS HEARING REGARDING

Hearing Officer:

, West Virginia 26201
Home Telephone: 304-
Office Telephone: 304-

Determination in the case of:

Hearing Requested by: Mr. and Mrs.

Parents' Attorney:

Current Educational Placement: Home/Hospital Instruction
County Schools

County: County Schools
, Superintendent
Assistant Superintendent
, Director-Office of Exceptional Children
Street

County Attorney:

Charleston, West Virginia

Date Hearing Requested: May 25, 1982

Dates of Hearing: July 12 and 13, 1982

Place of Hearing: Center

Date Report Submitted: July 21, 1982

DOCUMENTS PRESENTED AS EVIDENCE

By the County Schools:

1. Confidential File for including:
    a. identification/referral and screening information
    b. evaluation information
    c. placement information
    d. instruction information
    e. due process correspondence
2. Competency Tests Scores and Individual Diagnostic Maps from Tests Administered 10-18-79, 12-16-80, 11-19-81, and 5-3-82 for
3. Computer Grade Sheets for Eighth and Ninth Grade at Junior High for
4. Permanent Record Card for
5. High Student Folder Information for
6. County Schools Records for
7. Home Instruction File for
8. Schools Policy Handbook for Exceptional Children
9. West Virginia Department of Education Standards for the Education of Exceptional Children

By Mr. and Mrs. and

1. Records from Roanoke Valley Psychiatric Center for including:
    a. Report dated 12-3-81 from , Ed.D.
    b. Report dated 12-4-81 from Ed.D.
    c. Report dated 12-7-81 from M.A.
    d. Report dated 12-9-81 from Ed.D.
    e. Report dated 12-7-81 from Ed.D.
    f. Letter to Virginia from Irene dated 1-15-82
    g. Report dated 1-27-82 from Sallie P. , MALS
    h. Letter to Diane from Irene dated 2-9-82
    i. Objectives to be included in IEP (1982-83) for prepared by Irene
    j. Goals and Objectives relating to Mathematics (82/83) prepared by Irene
    k. Report dated 2-12-82 from , Ed.D.
    l. Discharge Summary dated 2-19-82 from J. Richard , M.D.
    m. Letter to Virginia from Irene dated 2-23-82
    n. Report dated 3-9-82 from Sallie P. , MALS
2. Placement Advisory Committee Members, Individual Education Program: Total Service Plan, Placement Advisory Committee Decision, date 2-19-82
3. Letter to Mr. from dated 2-24-82

4. Consent for Placement, Individual Education Program, Application for Home/Hospital Instruction for

5. Correspondence from Complaint filed with the West Virginia Department of Education dated 2-23-82, 3-15-82, and 3-17-82
6. The Brehm College Preparatory School, Inc. Psychological Evaluation for dated April 30 and May 1, 1982
7. Letter to Mr. from dated 5-19-82
8. Letter to from dated 5-25-82
9. Parental Request for a Hearing dated 5-25-82
10. Letter to Mr. and Mrs. from dated 5-28-82
11. Letter to Mr. and Mrs. from Barbara , Ed.D. dated 6-25-82
12. Contract for Services from Brehm College Preparatory School for dated 6-27-82
13. Correspondence regarding Scholastic Aptitude Test dated 6-25-82 and 6-27-82
14. Records from County Schools for
15. Excuse from Physical Education for dated 11-9-81
16. Records from County Schools for

17. Summer School Transcript from St. Margaret's School dated 7-31-81
18. County Schools Reading Competency Test Individual Diagnostic Map for
19. Records from County Schools
20. Career Planning Information for

ISSUE IN CONTENTION

The issue in contention for the due process hearing regarding is whether her classification as a behavior disordered student and her placement in the behavior disordered intensive service unit at High School are appropriate to meet her needs as a special education student. This classification and placement were proposed by the County Schools at a Placement Advisory Committee meeting on February 19, 1982.

The contend that primary handicapping condition is learning disabilities and that behavior disorders is her second handicapping condition. They further contend that she is eligible for out-of-state placement at Brehm College Preparatory School, since she has two handicapping conditions and since no appropriate placement is available in County or the state of West Virginia.

The objected to the classification and placement in the behavior disordered intensive service unit and refused the placement on February 24, 1982. was placed on Home/Hospital Instruction and also received Language Therapy for the remainder of the school year. She has earned enough credits to graduate from High School. Her diploma was held pending the outcome of this Hearing,since the contend that her special education needs have not been met. Her placement at the time of request for the hearing was Home/Hospital Instruction with Language Therapy. No handicapping condition was specified, although received Speech-Language Therapy as a related service.

SUMMARY OF TESTIMONY

Witnesses for County Schools:

1. , Director-Office of Exceptional Children, discussed the delivery of the Search and Serve Process in County with particular emphasis on the Policy Handbook for Exceptional Children. She described the events leading up to the Placement Advisory Committee of February 19, 1982, and she described the placement options discussed at that meeting and in previous meetings for She pointed out that case had entered the Search and Serve Process at the Placement level and that County Schools did not screen or evaluate but they did accept the evaluation results from the Roanoke Valley Psychiatric Center. Mrs. also discussed the County Schools criteria for learning disabilities placement. She stated that she did not believe that they are more restrictive than state or federal regulations.

2. , Coordinator-Office of Exceptional Children, discussed records from the elementary grades, the definitions of learning disabilities in the state regulations and County policies, and her interpretation of the evaluation from Roanoke Valley Psychiatric Center. She stated that does not qualify for learning disabilities services under County policies based on the work turned in during her Home/Hospital placement and her sixth grade reading level. also discussed her interpretation of the various tests given to from December 1981 through May 1982. She stated that the Placement Advisory Committee meeting scheduled for February 12 was cancelled due to the lack of evaluation results from the Woodcock-Johnson Psychoeducational Battery.

3. , Vice-Principal at Junior High, discussed grades and conduct in the seventh, eighth, and ninth grades. He stated that she was in lower track courses and had some behavior problems, but that no referral was made for evaluation and that no drug or alcohol problems were evident.

4. , expert witness in speech-language pathology, discussed her review of the Roanoke Valley and Brehm evaluations. Her recommendations included further evaluation and speech- language therapy but she stated that she could not predict whether problems are remediable.

5. , Speech Therapist, discussed her interactions with as the speech therapist delivering Home/Hospital services. She stated that had

improved vocabulary and auditory sequencing skills but that some auditory perception problems still exist. Ms. served for one hour once per week from March 1 to May 17.

6. , Counselor at High School, discussed her interactions with as her class's counselor. She stated that she had offered to refer for evaluation but that the parents had refused, stating that just needed proper motivation. She recounted the disciplinary incident of November 19, 1981 during which was disruptive during a competency test. Mrs. also coordinated the sending of assignments to the Roanoke Valley Psychiatric Center during hospitalization. She participated in the February 5, 1982 meeting during which placement options were discussed. Mrs. stated that she believes that behavioral problems are designed to get attention and peer acceptance.

7. Dr. , Consulting Psychiatrist, discussed his review of the evaluative report from Roanoke Valley Psychiatric Center, particularly the report of Dr. . Dr. explained the psychiatric terms used to describe condition. He agreed with the County Schools classification and placement, stating that behavior problems seem to be predominant.

8. Vice-Principal at High School, discussed behavioral problems at school. He stated that seemed to know how far she could go before she would get into trouble and that she often reported her own misconduct. He discussed his meeting with the after the November 19, 1981 incident. He discussed his participation in the February 5, 1982 meeting and his reasons for recommending that not be placed at High School. He also discussed his participation in the February 19, 1982 Placement Advisory Committee meeting.

9. Dr. , expert witness in learning disabilities, discussed his view that County Schools' learning disabilities criteria are excellent and operationalize state and federal regulations appropriately. Dr. discussed his review of the evaluations performed by Roanoke Valley Psychiatric Center and Brehm College Preparatory School. He stated that these evaluations selectively ignored some information, that some tests given were inappropriate for a student of age, and that some tests, particularly the WAIS-R, showed some practice effect. He stated that he believed that behavior problems were primary difficulty with learning disabilities as a secondary problem.

10. Dr. , expert witness in behavior disorders, discussed his review of . file. He described the High School program and stated that it is appropriate for . He stated that he believes that main problems are socialization and dealing with her emotions and other people. He expressed disappointment in the Brehm report, regarding it to be too slickly written. Dr. stated that some behavior problems in learning disabled and behavior disordered students are similar.

11. , Specialist for the Office of Exceptional Children, discussed the functions of the Placement Advisory Committee and its membership. She also discussed her role in the evaluation process. Mrs. reviewed the discussion which occurred during the Placement Advisory Committee meeting regarding on February 19. She stated that she felt very strongly that behavior was primary handicapping condition based on the information available at the February 19 meeting.

12. , Speech Therapist, discussed her role as chairperson of the Placement Advisory Committee meeting about on February 19, 1982. She stated that the did not seem to be interested in anything concerned with behavior disorders.

13. , IEP Liaison Teacher, discussed her role as a member of the Placement Advisory Committee concerning on February 19, 1982. She stated that graduation was still a goal for at that time. She stated that the Placement Advisory Committee generally believed that behavior was the most important presenting problem.

14. Dr. , Director-Counseling and Guidance, reviewed the CTBS and County Competency Test scores for He stated that more than one-third of the students in class showed verbal-nonverbal discrepancies similar to those of . He discussed the purpose of group achievement and competency exams.

15. Homebound Instructor, discussed her interactions with as she participated in the homebound program from March 5, 1982 through the end of this school year. Ms. met with two hours per week for instruction in consumer math. She reported that was courteous, flexible, and had no behavior problems.

16. Coordinator-Office of Exceptional Children, discussed her role in the case of . Her first interaction came on February 5, when she

discussed placement options for with and by telephone. She also discussed placement options with the on February 18 and February 24, 1982. Her impression was that graduation was to be a major thrust for . She also discussed the Home/Hospital placement, which was considered to be an interim placement. Mrs. stated that the ' opposition to some placements seemed to be based on social factors. She also described the placements available in some detail.

17. Assistant Superintendent-Pupil Services, discussed his February 18, 1982 telephone conversation with Mr. and his February 19, 1982 meeting with Mr. and Mrs. He discussed the questions of graduation and continued service delivery with the in depth. He stated that special education students are given credit toward graduation by reaching goals and objectives on the student's Individual Education Program and that special education students continue in school until graduation or age twenty-three.

18. Clinical Supervisor-Psychological Services, discussed his review of the evaluation reports regarding He stated that he believes the proposed classification and placement to be appropriate. He discussed the practice effect and its relationship to scores on the WAIS-R.

Witnesses for the

1. , Educational Coordinator, reviewed her interactions as teacher at the Roanoke Valley Psychiatric Center. She stated that she taught material provided by School, but that she had to adapt the presentation. She stated that she believed that progress with adapted presentations verified that is learning disabled. She also stated that had behavior problems at first but that she improved rapidly. Ms. reviewed her IEP recommendations, which were presented at the February 19, 1982 Placement Advisory Committee meeting.

2. Dr. , Educational Consultant, discussed her observations of and her role at the February 19, 1982 Placement Advisory Committee meeting. Her opinion was that requires a self-contained learning disabled program. She stated that the goals on the Total Service Plan dated February 19 are goals common to learning disabilities. She further stated that placement in a high school program would not be appropriate at this time, since high school students are not "future thinking" as would be.

3. Dr. , Psychiatrist, discussed his view of and his role in the February 5, 1982 meeting and the February 19, 1982 Placement Advisory Committee meeting. He stated that had made a marked improvement and that she is a very conscientious, highly-motivated patient as she continues in therapy. Dr. believes that diagnosis as learning disabled is obvious.

4. Dr. , Administrative Director, testified in place of Dr. She reviewed the results of the evaluation performed by the Brehm College Preparatory School. She believes that requires a residential placement in order to remediate her learning disabilities, since she performs well below expectancy, as measured by three standard expectancy formulas. She stated that the IEP goals are goals common to learning disabilities.

5. Dr. , expert witness in learning disabilities, described her review of file and her conclusions. She stated that is a learning disabled student because her academic difficulties pre-dated her behavioral problems. She believes that the goals on the February 19, 1982 Total Service Plan are goals common to learning disabled students. Dr. stated that has had academic problems since the elementary grades and has not improved, even though she seems to try hard and maintains effort. Dr. used all evaluation data available to make her determination that is learning disabled.

6. Dr. , expert witness in learning disabilities, also served as an advisor to the throughout the hearing. Dr. responded to many of the issues and witnesses directly, since she had heard all testimony to this point. She stated that is a learning disabled student who requires residential services. Because responded to treatment in a residential setting while at Roanoke Valley Psychiatric Center and because she must be remediated in a short amount of time, residential services are appropriate, according to Dr. .

7. mother of testified that she had been aware of academic problems since fourth grade and that she had always used the term learning disabled to describe Katherine. She discussed her efforts on behalf of in depth. She stated that she was not aware that had school behavior problems until the November 19, 1981 incident.

8. , father of discussed his actions on behalf of his daughter. He testified that he feels that the schools have not met their responsibilities regarding He further stated that he was trying to provide an education for and that the evaluation by Brehm and her placement there were undertaken to attempt to diagnose and treat her problems. That the evaluation might appear stilted toward Brehm as a placement was discussed and discounted by . Mr.

DETERMINATION AND SUPPORT INFORMATION

is an eighteen year old student who has completed enough credits to graduate from High School. Her diploma has been held pending the decision in this due process hearing. was hospitalized at Roanoke Valley Psychiatric Center for treatment for behavioral problems. While there, she was diagnosed as learning disabled. She has also been diagnosed as learning disabled by the Brehm College Preparatory School, where she has been accepted for placement in the fall. and her parents contend that this is a necessary and appropriate placement for her since her academic and behavior problems are the result of her unremediated specific learning disabilities.

County Schools contends that difficulties are the result of behavior disorders. She does not qualify for a learning disabilities placement under present County policy, according to their contention.

is functioning in the average range of intelligence, according to the results of a psychological evaluation performed on December 7, 1981 by Daniel at Roanoke Valley Psychiatric Center. This evaluation probably reflects intelligence level most accurately. Subsequent administrations of the WAIS-R were performed on March 9, 1982 and May 1, 1982, but the results of these are likely to reflect familiarity with the instrument. Appropriate second administrations of the WAIS-R should occur at least six months after the first evaluation.

Although group test information can be useful in analyzing patterns of achievement, it is of limited importance when making educational decisions about individual students. There are many factors which can cause group test scores to vary for an individual student. Individual achievement tests give a much better picture of the student's achievement level, since the examiner can observe and keep to a minimum those factors which effect performance.

A review of individual achievement test information reveals that functioning at approximately the sixth grade level. On the Peabody Individual Achievement Test, administered December 4, 1981, she scored at a 6.8 grade level for the total test, with very little variability between subtests. On the Woodcock-Johnson Psychoeducational Battery administered February 12, 1982, scored at a 6.2 grade level on both the reading and mathematics clusters. The achievement tests performed during the Brehm evaluation on April 30 and May 1, 1982 yield somewhat higher achievement scores.

grades throughout her school career are mainly C's and D's. She has received private tutoring and attended summer school. She has never been retained and attended school regularly. She was able to receive passing grades and earn the credits necessary to graduate from High School, although some of her classes were "lower track".

Behaviorally, had some problems at Junior High and at High School. However, school authorities did not contact her parents about these problems until November 19, 1981, when Larry contacted Mr. and Mrs. about her disruptive behavior during the administration of the competency test. Mr. met with Mr. and Mrs. on Monday, November 23, 1981 to discuss problems. did not have an extensive record of misbehavior at school. She was never suspended or expelled. Her parents were contacted only once. She was admitted to Roanoke Valley Psychiatric Center on November 24, 1981 for antisocial acting out and drug/alcohol abuse. During her evaluation interview with Mr. she frequently mentioned problems with her parents. She has shown marked improvement since her hospitalization and continues in individual and family therapy with Dr. Since Mr. and Mrs. had been unaware of behavior problems at school until November 19, 1981, it appears that behavioral problems at home combined with the incident at school led them to seek psychiatric help for

The Placement Advisory Committee which met on February 19, 1982 to consider case was inappropriately staffed. No professional personnel certified in the areas of learning disabilities or behavior disorders in West Virginia were present. Also, the IEP: TSP dated February 19 does not include the Special IEP: TSP Content Requirements required for behavior disorders in the Standards for the Education of Exceptional Children. Similar requirements for learning disabilities are listed in the Standards but are absent from file. Since the Placement Advisory Committee discussed both behavior disorders and learning disabilities placement, the requirements for both areas should have been discussed and documented appropriately.

The Education of All Handicapped Children Act, P.L. 94-142, gives the states and local education agencies the responsibility for development of procedures necessary to implement the provisions of the Act. The West Virginia Department of Education issued the Standards for the Education of Exceptional Children in response to this requirement. In turn, each county is required to develop policies and procedures to implement the Standards. County Schools has issued its Policy Handbook for Exceptional Children. The procedures for determining eligibility for placement in learning disabilities programs have defined a recommended severe discrepancy which is consistent with the State and Federal regulations. That other local education agencies may define the severe discrepancy differently from County is not relevant.

Given the considerations listed above and the testimony and evidence presented at the hearing, the hearing officer finds that is not learning disabled to the point that she qualifies for services as a handicapped student under state, federal, or County regulations. This ruling is based on the fact that emotional factors must be ruled out if a student's problems are to be labelled learning disabilities. No evidence was presented to rule out emotional disturbance conclusively. In fact, and her parents argued through their counsel that is multi-handicapped, with her second handicap being behavior disorders.

The second factor in ruling that is not learning disabled is that she does not exhibit a severe discrepancy between ability and achievement as defined in the County School's policy. has earned sufficient credits to graduate from High School. Although she struggled through school, she was able to graduate. She was able to complete successfully those tasks necessary to reach a level of education which is an important milestone in American society. She may in fact have academic problems which can be described as learning disabilities by some theorists, but she is not handicapped by them. She may not have maximized her individual potential because of these or other problems, but she has reached a level which is societally acceptable and honored.

The hearing officer also finds little to classify as behavior disordered. Her behavior problems at school were not severe enough to warrant standard disciplinary actions and her achievement did not change radically. Behavior problems at home or in the community are not the province of the school, unless the behavior has a deleterious effect on personal or educational development. Since has markedly improved since her hospitalization, there is no reason to recommend a special education placement. If were to continue in an educational setting, she should be in a normal school environment where she can learn to interact with her peers and authority figures appropriately. With the help of her therapist, she should be able to succeed in a regular school program without special education.

The Education for All Handicapped Children Act was intended to insure that handicapped children receive an educational program appropriate to their needs. The Act's intent was to give handicapped students access to the public elementary and secondary school system. It was recognized that some handicapped students might take longer than normal to complete their education and, as a result, the Act's provisions were extended to age twenty three in West Virginia. The Act was not intended to provide special education and related services beyond the secondary school level. Other programs and agencies exist to assist students with access into further education and training programs. Since has completed credits for graduation, the public school system's responsibility for her has ended.

In summary, is not a handicapped child requiring special education and related services. Her academic and behavior problems have not been serious enough at school to warrant placement. Since she has earned the credits necessary for graduation, the school system is no longer responsible for her education. should be granted her diploma and encouraged to pursue further education and/or training at her discretion.

D.P.H. # 2

RECEIVED APR 10 19

FINAL REPORT OF DUE PROCESS HEARING

Determination in the case of: ******* ******
*** ******** **.
***********, ** *****

Current Educational Placement: Elementary School
Behavioral Disorders Class
, WV

County:
Superintendent: Mr.
Designated contact person: Ms.
Director of Special Education

Parents' Name: Mr. & Mrs. ***** ******
Address: *** ******** **
*********** ** ******

Date hearing requested: January 20, 198
Hearing requested by: Mr. & Mrs. ******
Date of hearing: March 12, 198

Location of hearing: Building
Street
, WV

Date report submitted: March 15, 198

Hearing Officer: David

Parents' legal counsel:
Attorney at Law

Charleston, WV

County Board of Education's legal counsel: None

Submitted by:

I. LISTING OF HEARING PARTICIPANTS

	Special Education Director
	Assistant Special Education Director
	Psychologist
	Teacher - Behavioral Disorders
Mr. ***** ******	Father
Ms.	Attorney for Mr. & Mrs. ******

II. DOCUMENTS PRESENTED AS EVIDENCE

1. Letter to Dr.
2. Log of bus schedule
3. I.E.P. for ******* ******

III. ISSUE IN CONTENTION

The issue of the hearing is that of a free appropriate public education for ******* ******. Mr. and Mrs. ****** contend that the present transportational service is inadequate resulting in an instructional day that is less than the required minimal instructional day. The County Board of Education contends that the quality of the present educational services are such that the current quantity of service is adequate and appropriate.

IV. BACKGROUND

Testimony presented indicates that ***** is a male fifth grade student whose home school is Elementary School. ***** is identified as having specific learning disabilities secondary to a behavioral disorder. The extent of his handicap requires the services found in a self contained classroom. The appropriateness of the educational placement is not in dispute.

V. SUMMARY OF EVIDENCE AND TESTIMONY

Special Education Director

Requested by County Board of Education

-Testified that *****'s school day was from 8:30 a.m. to 1:45 p.m.

Assistant Special Education Director

Requested by County Board of Education

-Reviewed the development of *****'s current I.E.P.

Psychologist

Requested by County Board of Education

-Testified that a full instructional day was not offered.

-Provided copy of the current I.E.P.

Teacher - BD

Requested by County Board of Education

-Testified that the length of *****'s instructional day is approximately from 8:20 a.m. to 2:50 p.m.

***** ******

Requested in behalf of ******* ******

-Testified concerning the handicapping condition of *****; as to the transportation schedule and the length of instructional day; submitted log of transportation schedule which County School stipulated as accurate.

Document - Letter to Dr. from Dr. Roy Truby

Submitted in behalf of ******* ******

- Provides clarification as to what constitutes an instructional day as defined by State Board Policy #2441.

VI. FINDINGS OF FACT

1. ***** is a fifth grade student identified as propriately placed in a self contained Behavioral Disorders ss with additional instructional services from a specific arning disabilities teacher.

2. State Board Policy #2441 defines the minimum length of the instructional day for *****'s grade placement to be 345 minutes, exclusive of lunch.

3. *****'s instructional day is significantly less than the required 345 mimutes.

4. "Education of Exceptional Students" requires that "For the eligible exceptional student, the minimum length of the instructional day shall be the same as that established for his/her non-handicapped peers." (2.0 B.2.a)

5. Section 1.11 of "Education of Exceptional Students" requires that "The public agency provide free appropriate transportation services to any handicapped student who requires special transportation sevices".

6. ***** is attending a school out of his home district and requires special transportation.

7. The hearing was requested on January 20, 198 ; the Hearing Officer was assigned February 22, 198 ; the hearing was conducted March 12, 1984; and the decision was rendered March 15, 1984.

VII. STATEMENTS OF CONCLUSIONS OF LAW

The Hearing Officer finds that:

1. The minimum length of the instructional day for *****'s grade placement is 345 minutes, exclusive of lunch.

2. The minimum length of the instructional day is the same as that established for non-handicapped peers.

3. The County Board of Education is required to provide free appropriate transportation services to handicapped students.

4. The time between the request for the hearing and the arrival of a decision is in excess of 45 days.

VIII. DECISIONS AND RATIONALE

The Hearing Officer finds that ******* ****** is entitled to a full day of instruction and the necessary support services required to benefit from special education. The County Board of Education is directed to provide transportation services that will enable ***** to receive a full instructional day.

IX. APPEAL RIGHTS

A verbatim record of the due process hearing may be requested. An administrative appeal by the West Virginia Board of Education may be requested if either party is dissatisfied with the decision and findings rendered by the impartial hearing officer.

If a request for the Administrative Appeal is indicated, the dissatisfied party will forward the request to the State Superintendent of Schools. The State Board of Education will rule on the Administrative Appeal within thirty (30) days of the State Superintendent's receipt of the request. If either party disagrees with the decision of the State Board of Education, an appeal my be made to the Circuit Court of the child's county of residence.

D.P.H. # 3

OPINION AND RECOMMENDATIONS

DUE PROCESS HEARING

CASE OF

****
(BIRTHDATE: September 12, 1968)

****** INTERMEDIATE UNIT #3
******* SCHOOL DISTRICT

DATE HELD: FEBRUARY 9, 1977
7:00 P.M.

PLACE: *****************
Monroeville
Allegheny County, Pennsylvania

HEARING OFFICER: Mr. **** *****

HEARING OFFICER'S OPINION

DUE PROCESS HEARING

FOR

****

***** *****, Director of Special Education, School District of the City of****, Pennsylvania, served as Hearing Officer. The following persons represented or testified on behalf of ******** Intermediate Unit #3:

**** *****
****
****
Pittsburgh, Pa. 15219

(See page 2 of Transcript for other name)

Representing **** ***** were:

******* ********
****
****
****
Pittsburgh, Pa. 15219

(See page 3 of Transcript for other names)

BACKGROUND INFORMATION

This hearing was held at the request of Mr. and Mrs. *** **** because they are not satisfied that the Level 3 educational program outlined for **** at the ***** School is appropriate. A Program Placement Conference was held November 17, 1976, at the request of Mr. and Mrs. **** ***** . The following is a description of the placement and program recommended by the ******* School District:

"******* is assigned to Level 3, **** Elementary School. His basic education program includes the required elementary curriculum areas of reading, spelling, language, mathematics, social studies, science, health, and art, music, and physical education.

**** receives an enrichment program in mathematics, social studies, science, health, and art, music, and physical education.

**** receives an enrichment program in mathematics in addition to his basic elementary mathematics program, Silver-Burdett Mathematics, General Learning Corporation, 1973.

He is presently enrolled in the GATE (Gifted and Talented Enrichment) Program which provides an enrichment program (20 min.), specific units of study Inventors and Inventions Unit (50 min.), and CIP - Contract Individual Prescriptions - Learning Centers (50 min.)."

This recommendation was made for the following reasons:

" **** ***** was administered a WISC by a certified school psychologist, on June 14, 1973, and was found to meet the criteria for the GATE (Gifted and Talented Enrichment) Program.

Thus, he was placed in the ****** Intermediate Unit's program for gifted and talented school age children.

The Metropolitan Achievement Test, Primary 1, administered during September, 1975, as part of the District's standardized testing program, indicated that **** possesses high ability in mathematics.

Subsequently, the school administered the Key Math, Diagnostic Arthmetic Test on June 4, 1976. This test also indicated that **** possesses high mathematics ability. Thus, he is being provided an enriched math program in his regular classroom."

Following the Program Placement Conference, Mr. and Mrs. **** ***** signed the following statement dated November 17, 1976:

"I do not approve the educational assignment as described at the PROGRAM PLACEMENT CONFERENCE and I desire a HEARING before a designee of the Secretary of Education as outlined in the notice."

The issues in contention appear to be the school district's assertion that the program described at the Program Placement Conference is an appropriate educational program for **** . Mr. ***** , representing Mr. and Mrs. **** , contends that this "is not an appropriate educational placement program for **** in that as a gifted child, there is substantial evidence on the record that his intellectual potential is far above the kind of education he is receiving currently with the **** School District."

SCHOOL DISTRICT EVIDENCE

Mrs. ******* , *********'s third level classroom teacher, was the only witness called by the ****** School District. Mrs. **** described the regular school program and the enrichment provided to **** as a Gifted student. According to Mrs. **** , ***** is receiving an enrichment program in all areas. This enrichment program is based on the results of the "Metropolitan Achievement Test" and the "Key Math Test." In Math, "a program was developed to give **** many additional values on a fourth level and extending of many of the concepts."

In basic math, each child is given a pretest to determine areas of strength or weakness. The areas where weakness appears are taught and reinforced. When the student shows strength, he can move on to other areas of choice, according to Mrs. **** . Some of these choices are on the "sixth level."

**** is placed in one of the higher academic reading groups. His placement to this group was made after reviewing standardized test results and using teacher judgment. Some of the enrichment activities include: creative writing, poetry, "challenges" and an "S.R.A. kit."

Mrs. **** testified that *****'s program is unique to him and tailored to his needs.

EVIDENCE ON BEHALF OF ********** ********

At the beginning of the second grade, **** tested at the 3.4 level in reading and at the 5.9 grade level in Math. In June, 1976, ****'s score on the "Key Math Test" was between 5.0 and 5.3.

Mr. ***** stated, "At 2.1 (grade placement), the Metropolitan test indicated a 3.4 achievement level and now that he's at 3.4 (grade placement), he's doing 3.4 work, and I think that's substantially regressing his intellectual development and achievement."

Mrs. ***** testified that there is no written individualized educational prescription for **** . Also, there is no acceleration of subject matter other than some enrichment activities which involve working with fourth grade materials.

Mrs. ***** stated that **** has complained to her that he is not being stimulated in class. She has worked with **** , successfully using sixth grade level math materials.

STATEMENT OF FACTS AS THE HEARING OFFICER SEES IT

**** **** is a Gifted youngster. He was administered a WISC on June 14, 1974, at the age of 5 years, 9 months. His scores were Verbal 139, Performance 118, Full Scale 132. Both parties to this hearing agree that he is Gifted. He participated in the **** I.U. Gifted Program 140 minutes per week and this program is acceptable to both parties.

Mr. and Mrs. ***** ********** do not feel that the regular third grade program at ********** Elementary School is appropriate for their son.

At the **** School, **** received the regular basic education program available to all third grade students as well as an enrichment program in mathematics.

The ***** Area School District feels that because of the assignment of **** to the Gifted Program along with the math enrichment and regular basic education programs, he is receiving an appropriate education.

The parents feel he is not progressing at a rate consistent with his potential. They would like acceleration of subject matter, a "full-blown educational evaluation," an "individually adopted educational program to be examined by the parents for their approval or disapproval," "a mandated implementation of the program," and "frequent conferences with the parents to discuss the implementation of an adequate educational program."

DECISION AND RECOMMENDATIONS

1. Continue the present placement in the third grade and the GATE Program.
2. That an individual prescriptive education program plan be developed for **** by qualified professionals within the School District and Intermediate Unit and that **** 's parents be given an opportunity to participate in the development of this program.
3. Prior to the development of the individual prescriptive education plan, **** should be given a complete battery of achievement tests. The results of these tests should be considered in the development of the individual plan, particularly in the area of acceleration of subject matter.

Enclosed with my decision and recommendations for **** is a duplicate set of Appeal Procedures.

Respectfully submitted,

***** *******
Hearing Officer

APPEAL PROCEDURES

A. Any exception to the decision must be sent to:

Division of Special Education
123 Forster Street
Harrisburg, Pennsylvania 17102

by certified mail within 15 days of the excepting party's receipt of the hearing officer's recommendations. A copy should also be sent, in the same manner, to the opposing party (apellee).

B. The opposing party can file an answer to the exceptions. The answers must be sent to the Division of Special Education by certified mail, within 10 days of the appellee's receipt of exceptions. A copy of the answers should be sent to the excepting party as well.

C. The Division of Special Education, upon receipt of said exceptions and answers, will immediately transmit them, along with the official transcript and the hearing officer's recommendations, to the Secretary of Education.

D. If no exceptions are submitted by either party, but the hearing officer's decision is in direct opposition to the school law, the Division of Special Education, as an interested party, may submit the aforementioned materials to the Secretary of Education for review and an opinion. In such cases, the Division of Special Education shall notify both parties and the hearing officer in the case.

E. The Secretary of Education shall review all exceptions and answers and, in appropriate circumstances, will utilize the resources and expertise of the various divisions within the Department of Education. The Office of Basic Education and the Legal Division will be available for such consultations, as well as all other divisions in the Department.

F. No decision by the Secretary of Education shall be rendered later than 20 days after receipt of the exceptions and answers.

G. Any party may appeal any final decision of the Secretary to the Commonwealth Court in accordance with any applicable provisions of law.

Andrew AHERN, Jr., Rita M. Ahern, on their own behalf and as parents and next friend of Alicia Ahern, a minor, Plaintiff,

v.

William B. KEENE, State Superintendent of Public Instruction, the State Board of Education, Dr. Frank J. Furgele, as Superintendent of the Brandywine School District, the Brandywine School Board, and the Brandywine School District, Defendants.

Civ. A. No. 82-309 MMS.

United States District Court,
D. Delaware.

Aug. 31, 1984.

OPINION

MURRAY M. SCHWARTZ, District Judge.

This pro se action is brought under the Education for All Handicapped Children Act ("EAHCA" or "the Act"), 20 U.S.C. §§ 1401-1461 (1982). Plaintiffs,[1] Andrew G. and Rita M. Ahern on their own behalf and as parents and next friends of Alicia Ahern, their child, contend that the Brandywine School District (the "School District") cannot provide the free appropriate public education guaranteed by the EAHCA.[2] The Aherns seek funding for tuition and related expenses, for the 1981 academic year to the present, for Alicia's attendance at the Benedictine School for Exceptional Children ("Benedictine"), a private boarding school located in Ridgely, Maryland.

The present lawsuit culminates a five year dispute between plaintiffs and school

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of the State of Delaware; the State Board of Education; Dr. Frank Furgele, Superintendent of the School District; the Brandywine School District; and the Brandywine School Board.

officials over the appropriate placement for Alicia.[3] Although the issue is whether in 1981[4] Alicia was entitled to residential placement, a brief description of events prior to 1981 is necessary to place the instant action in context.

In 1979 the Aherns became dissatisfied with the program offered at the Charles W. Bush School ("Bush") for handicapped children. Concern about problems with Alicia's emotional and social development led the Aherns to apply for a state-funded private school placement. The Aherns contended that Alicia's mental handicap required a 24-hour residential program. The Individual Placement Review and Dismissal Committee ("IPRD") for the New Castle County School District ("NCCSD") considered plaintiffs' request in July 1979. Although members of the IPRD believed that Bush was an appropriate educational placement for Alicia, they agreed to wait for a psychiatric examination before rendering a final decision. An evaluation by Dr. Henry Berger, a psychiatrist affiliated with the Delaware Guidance Services For Youth and Children, recommended residential placement. The Coordinator of Clinical Services for Delaware Guidance, Nancy A. Myers, and Dr. J. Jordan Storlazzi, Alicia's personal physician, concurred with Dr. Berger's recommendation. Nonetheless, in August 1979, the IPRD denied the Aherns' request for tuition assistance. Pursuant to the review procedures prescribed by the EAHCA, the Aherns requested an "impartial due process hearing." 20 U.S.C. § 1415(b)(2). The hearing officer determined that Alicia did not qualify for financial aid and concluded that the School District had met its burden of proving that it could provide Alicia with an appropriate education at Bush. The local hearing officer's decision was upheld by the state level review officer on January 7, 1980.

Before the first round of administrative review was complete, Alicia entered Benedictine at her parents' own expense in September 1979. Pursuing their quest for state-funding, the Aherns again applied for private placement tuition for the 1980–81 school year. The IPRD Committee, the due process hearing officer and state level review officer all concluded that Alicia did not need residential placement.

On January 23, 1981, the Aherns submitted their third request for a private placement grant.[5] The Area IPRD Committee denied plaintiffs' request on April 20, 1981. A District IPRD meeting was held on April 28, 1981, but was recessed to gather more information. After reconvening on June 4, 1981, the District IPRD denied plaintiffs' request. At the October 26, 1981, due process hearing, plaintiffs introduced numerous documents, expert testimony, and testimony from Mrs. Ahern, in support of their claim that Alicia required residential placement. The School District introduced various documents as well as testimony from staff members of the Bush School and from a psychiatrist for the School District. Based on the evidence submitted, the hearing officer concluded that the Bush School satisfied Alicia's current educational plan and that Alicia did not meet the requirements for a state-supported tuition grant. The November 30, 1981, due process decision was upheld by the state level review officer.

The Aherns subsequently filed this action pursuant to 29 U.S.C. § 1415(e) to obtain judicial review of the state decision. Subsection 1415(e)(2) provides that "the court shall receive the records of administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate." Both parties requested the opportunity to provide additional evidence, and a hearing was held on April 14, 1984. Although the parties filed cross-motions for summary judgment, they agree that the case should be decided on the present record as if a trial had been held. (Doc. 44, pp. 2–7). The following findings of fact are based on the testimony and documents presented at the 1981 due process hearing, supplemented by additional exhibits and depositions previously filed.

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[3] Plaintiffs previously applied for private placement tuition for the 1979–80 and 1980–81 school years. Plaintiffs have not requested reimbursement for those academic years.

[4] Plaintiffs' amended complaint seeks relief for the 1981 academic year to the present, but the record is devoted entirely to Alicia's needs up until 1981 and the Court has no basis to reach a different result with respect to later years.

[5] The Aherns' request for private residential placement was made to the NCCSD. After the NCCSD was dissolved on June 30, 1981, the Brandywine School District assumed responsibility for the Aherns' due process hearing. The former NCCSD and the Brandywine School District will be referred to as "the School District."

I. *Background*

Alicia Ahern, born on December 28, 1964, is mentally handicapped and diagnosed as having Down's Syndrome, congenital heart abnormalties, a slight hearing loss in one ear, and problems with speech and visual acuity. Alicia has an I.Q. level of 44, which places her in the upper segment of the trainable mentally handicapped category.

In 1969 Alicia entered the Bush School and remained there until the end of the 1978–79 academic year. School officials testified at the due process hearing that Alicia's experience at Bush was marked by successful educational progress. An April 20, 1978, evaluation by Dr. Barbara Coleman, a psychologist for the School District, reported that Alicia's scores on the Wide Range Achievement Test "reflect educational skills highly commensurate with mental ability; i.e., Alicia is apparently achieving up to her presently estimated mental capabilities." (Doc. 1, p. 2).[6] Alicia was able to read and spell words at approximately a 2.5 grade level, while her math skills were at first grade level. Based on Alicia's low I.Q., Dr. Coleman interpreted the achievement test scores to indicate that Alicia was "putting forth a good effort in the classroom. She's taking advantage of what is being offered to her in the classroom." Transcript of October 26, 1981, Due Process Hearing at 20 (Dkt. 33) (hereinafter "Tr. at ___"). Alicia's social self-help skills were at a 9 year old level and represented a "definite strength" in her overall learning experience. (Doc. 1, p. 2). Alicia could care for herself at the table, write occasional short letters, make telephone calls and do remunerative work. (*Id.*). She had not, however, developed to the point where she could be left alone to care for herself. (*Id.*). Overall Alicia's skills placed her in the upper half of the population at Bush.

Although the Aherns were satisfied with Alicia's academic progress and achievement at Bush, they became increasingly concerned about her emotional stability and social development. Beginning in 1975, the family noticed that Alicia talked to herself. As she approached adolescence Alicia's behavior at home and in the neighborhood apparently deteriorated. In addition to talking loudly to herself and to imaginary friends, Alicia withdrew into a fantasy world when moderately stressed, wandered away from home, talked to strangers, occasionally related in a bizarre and inappropriate manner, and twirled herself around in circles on sidewalks near her home and at shopping malls. In the spring of 1979, these episodes led the Aherns to Delaware Guidance Services For Children And Youth, Inc. ("Delaware Guidance").

Dr. Henry G. Berger, a psychiatrist affiliated with Delaware Guidance, first examined Alicia in July, 1979, and reported to the IPRD that Alicia exhibited no signs of severe depression or psychosis. He stated, however, that Alicia used "borderline psychotic defenses of withdrawal into fantasy" in order to "deal with the stress of adolescence." (Doc. 6, p. 1–2). Explaining that Alicia's problems could be traced to her home environment, which had only a "limited capacity" to "engage Alicia emotionally," Dr. Berger believed that Alicia needed more peer interaction and stimulation after the school day ended. (*Id.*). According to Dr. Berger, a residential program geared to meeting Alicia's emotional and vocational needs was "imperative." (*Id.*). At the due process hearing, Dr. Berger elaborated on his recommendation, explaining that residential placement was necessary because Alicia had a tenuous grasp on reality and needed a constant, safe, supportive environment "in order to learn to cope ... with the world around her in a more successful and competent manner." (Tr. at 33).

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[6] Documents filed as part of the evidentiary record in this case (Dkt. 40) will be cited as "Doc. ___ p. ___"

School officials were cognizant of the emotional difficulties described by Dr. Berger. Dr. Coleman in her 1978 report observed that Alicia was "highly distractible and inattentive." (Doc. 1, p. 1). Similarly, the principal of Bush, Linda O. Mazepink, wrote in a May 29, 1979, letter to Nancy A. Myers, Coordinator of Clinic Services for Delaware Guidance, that Alicia's academic progress indeed was "hindered by anxiety and a lack of confidence. Her day-dreaming and fantasizing are also deterrents to her learning. Alicia, in many cases, does not seek challenges and has a short attention span." (Doc. 3, p. 1). Mrs. Mazepink, however, qualified her observations by explaining that Alicia's learning difficulties had been discussed with Mrs. Ahern during numerous conferences and were being addressed in Alicia's individualized educational program ("IEP"). "If this were not the case," Mrs. Mazepink explained, "we too would be concerned about our ability to meet her educational needs." (*Id.*).

One of Alicia's teachers at Bush, Claire Dunigan, corroborated Mrs. Mazepink's evaluation. Mrs. Dunigan testified that Alicia's fantasizing presented occasional problems, usually in the hallways and at lunch, but that at most times was under control. (Tr. at 54-55). Alicia's emotional problems, explained Dunigan, "really didn't present a problem in the classroom" and did not interfere with her learning. (*Id.* at 55). In fact, during the time Alicia presented the most difficulty for her parents at home, Alicia was described by Mrs. Dunigan as motivated, anxious to learn and very cooperative with her teachers. (*Id.*).

School officials testified that Alicia's particular social and emotional problems were not uncommon among students at Bush. (Tr. at 46, 53). Specific programming, not previously available in 1978-79, has been developed to meet those needs. (Tr. at 21-27; 46; 49; 51-53).

As previously noted, despite numerous conferences with school personnel, the Aherns in September, 1979, enrolled Alicia in a residential program at Benedictine. Recent achievement scores reveal some progress in reading, mathematics, and language skills. Alicia's social and emotional skills, however, have improved significantly. Follow-up reports indicate that the structured program at Benedictine has helped Alicia to express herself in a more mature manner and has reduced her inappropriate behavior. (Docs. 48, 53). An October 19, 1981, follow-up evaluation prepared by Dr. Berger one week before the most recent due process hearing memorializes that

> Alicia has matured both socially and in her ability to handle anxiety, as evidenced both by her behavior at home, reported by her parents as well as by her behavior during the interview. She appears significantly less dependent; she seems able to use more appropriate defense mechanisms, such as denial and repression, suggesting a strengthening of her ego functioning. I feel these gains are in response to efforts made at the Benedictine School, and that there is still evidence, however, that without continued input, a structured, active, appropriate setting, she is capable of regressing and falling back from current gains. I therefore recommend continued placement at the Benedictine School.

(Doc. 53). In addition, Dr. Berger testified that Alicia showed marked changes and improvement, suggesting "better judgment, better competence and increased ability to handle difficulties ... in a more realistic and appropriate manner." (Tr. at 34). Mrs. Myers, Dr. Storlazzi and Dr. Kliman all agreed with Dr. Berger that

> Alicia needs continued structure and support and should not be removed from Benedictine.

II. *The Administrative Decisions*

The due process hearing officer and state level review officer denied plaintiffs' request for a tuition grant for the 1981–82 year. The hearing officer concluded that the School District demonstrated that Bush was an appropriate educational placement for Alicia. (Doc. 55). Although the Hearing Officer acknowledged Alicia's improved emotional condition and social orientation, he found that the parents' decision to withdraw Alicia from the Bush School in 1979 was not warranted. Recognizing Alicia's need both for a "structured program" and "peer interaction," the hearing officer concluded:

> Public school officials have testified that the provisions of the child's current IEP can be and, in fact, are a part of the educational programming at the public school. In light of the above, as well as documented evidence of the child's self-awareness, independence, and academic ability, we must conclude that the child can benefit from an appropriate education within the confines of Delaware's "continuum of services."

(Doc. 55, p. 4).

In her decision upholding the hearing officer, the state level review officer also found that Alicia did not qualify for state-funded private placement as a "complex or rare" handicapped person:

> Alicia has undisputedly made excellent progress at the Benedictine School. Her emotional problems are less evident, her behavior is more appropriate and she is able to function better. However, it has not been shown that it is the residential component that has made the difference for her. From the schedule submitted by the school, it appears that the residential component provides largely socialization and recreational activities and is not designed to carry out specific objectives of Alicia's educational program. Counseling, peer interaction, speech and language skills, self-help skills and academic objectives can all be implemented by the Bush School within its program....
>
> * * * * * * *
>
> ... Although Alicia has multiple handicaps, her primary handicapping condition is Downs Syndrome. Her emotional problems, which were severe in the past, do not currently appear severe enough to constitute a second handicapping condition. Nor is the overall impact of her handicap so severe as to prohibit her benefiting from an appropriate public education. The documentation does not support the label "complex or rare". Additionally, the Brandywine School District has shown its willingness and ability to provide an appropriate program at the Bush School.

(Doc. 56, p. 6).

III. *Judicial Review Under EAHCA*

[1, 2] The EAHCA permits "[a]ny party aggrieved by the findings and decision" of state administrative hearings to bring a civil action in district court. 20 U.S.C. § 1415(e)(2). The Act specifies that the court shall receive the administrative record, hear any proffered additional evidence and, "basing its decision on the preponderance of the evidence," grant appropriate relief. *Id.* Although the Third Circuit Court of Appeals has held that section 1415(e)(2) "contemplates a de novo review role by the district courts," *Kruelle v. New Castle County School District,* 642 F.2d 687, 692 (3d Cir.1981), the Supreme Court in *Hendrick Hudson Central District Board of Education v. Rowley,* 458 U.S. 176, 102 S.Ct. 3034, 73 L.Ed.2d 690 (1982), reviewed the policies and objectives of the Act and interpreted the standard of review somewhat more narrowly. "[T]he provision that a reviewing court base its decision on the 'preponderance of the evidence,'" the Supreme Court explained, is not an "invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review." *Id.* at 206, 102 S.Ct. at 3051. Although reviewing courts must make an independent review of the evidence to de-

termine whether the state has offered an appropriate education, *See Irving Independent School District v. Tatro,* — U.S. —, 104 S.Ct. 3371, 82 L.Ed.2d 664 (1984), "due weight" must be given to state administrative decisions. *Rowley,* 458 U.S. at 206, 102 S.Ct. at 3051. A reviewing court's inquiry is twofold: "First, has the State complied with the procedures set forth in the Act? And second, is the individualized educational program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits?" *Id.* at 206–07, 102 S.Ct. at 3051. Once a court determines that the requirements of a free appropriate education have been met, "questions of methodology are for resolution by the States." *Id.* at 208, 102 S.Ct. at 3052. *See also Milliken v. Bradley,* 418 U.S. 717, 741–42, 94 S.Ct. 3112, 3125–26, 41 L.Ed.2d 1069 (1974) (decisions of educational policy and control traditionally have been vested in state and local authorities).

The Aherns challenge the decision denying tuition funding for residential placement. Although plaintiffs allege numerous violations of procedural due process, the Aherns' basic position is that a free appropriate education cannot meet Alicia's unique needs without a 24-hour residential program.[7] Alicia's emotional problems, her parents argue, cannot successfully be treated unless she is in a highly structured program which offers significant activities after the school day formally ends.

Defendants contend that Alicia's emotional difficulties did not interfere with her ability to benefit from the education offered by the School District and any current problems can be treated through a variety of programs available at the Bush school. In the alternative, defendants argue that the Aherns' unilateral decision to change Alicia's educational placement in 1979 bars them from now seeking tuition reimbursement.

After carefully reviewing the voluminous record submitted by the parties, the Court concludes that the School District can provide a free appropriate public education within the programs offered at the Bush School.

A. *Procedural Defects in the State Administrative Process*

Plaintiffs do not quarrel with the procedures used to develop Alicia's individualized education program. Instead, their "due process" claims center on various alleged defects in the administrative review process. *See* Dkt. 43, ¶¶ 19, 22, 28–35 (Amended Complaint). It is not clear to the Court what relief plaintiffs seek for these alleged violations; however, after considering each allegation I conclude that plaintiffs' due process rights were not violated.

1. *Delays*

[3] On January 23, 1981, the School District received the Aherns' 1981–82 request for tuition funding. A due process hearing was not held until October 26, 1981. Plaintiffs contend that two periods of delay violated procedural due process.

Plaintiffs first complain that the Area IPRD committee meeting should have been scheduled sooner. The record reveals, however, that the IPRD promptly began working on plaintiffs' January 23, 1981, request. Nick A. Cofrancesco, chairman of the Area I IPRD Committee, responded on February 18, 1981, and indicated that he planned to make a classroom observation of Alicia at Benedictine on February 24th, collect records and other data and schedule a committee meeting to consider the request for tuition funding.[8] (Doc. 36). On April 8, 1981, the Area IPRD scheduled an April 20 conference to determine an appropriate educational placement for Alicia. On April 28, 1981, a District IPRD conference convened, recessed for additional information, and issued its final decision on June 4, 1981. I find no evidence that the School District was acting in bad faith. To the contrary, given the context of plaintiffs' request it appears that the IPRD committee's scheduling was reasonable.

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[7] Plaintiffs' complaint also asserts a claim that the standard set out in 14 Delaware Code section 3124(a), the congruent state statute authorizing funds for private residential placement, is more restrictive than the federal standard and therefore violates the equal protection and due process clauses of the United States Constitution. At oral argument, however, plaintiffs dropped this claim. *See* Transcript of April 4, 1984, Hearing at 64 (Dkt. 44). Plaintiffs contend that, as a matter of federal law, they are

[4] The Aherns' second complaint focuses on delays in scheduling the due process hearing. Plaintiffs' request for a due process hearing was sent on July 6, 1981, but was not scheduled until October 26, 1981. (Doc. 44). Federal and state regulations both provide that a final decision by the hearing officer must be rendered within 45 days after receiving a request for a hearing. 34 C.F.R. § 300.512; *Administrative Manual For Programs For Exceptional Children* 15 (September 1980) ("*Administrative Manual*"). The regulations also provide that specific extensions of time may be granted at the request of either party. *Id.* While in some circumstances a delay in scheduling a hearing can violate the Act, the record in this case indicates that any delay was not caused by defendants. Because the available hearing officers for the School District previously had presided over the Aherns' 1979–80 and 1980–81 requests, plaintiffs and the School District agreed to locate a different hearing officer. (Tr. at 9–11, 96; Doc. 45). Recognizing that it would take several weeks to obtain a comprehensive list of state approved qualified hearing officers, the School District and the Aherns agreed to waive the 45-day limit. (Docs. 45, 46). This waiver, coupled with the need to accommodate one of plaintiffs' own expert witnesses (Tr. at 96), leads me to conclude that the October 26, 1981, hearing date did not violate plaintiffs' procedural due process rights.

2. *Unilateral Appointment of Hearing Officers*

[5] Plaintiffs contend that the district superintendent's "unilateral appointment" of the due process hearing officer and state level review officer was a violation of plaintiffs' right to an impartial administrative hearing. In addition, plaintiffs argue that "educators" should not be selected to sit as hearing officers. The Court finds no merit to these arguments. The School District's appointment of the two officers was in compliance with applicable state and federal regulations. *See* 34 C.F.R. § 300.507 (1981); 14 *Del.C.* § 3124(b). Moreover, a review of the record indicates that plaintiffs received a fair and considered review of the evidence presented.

3. *Ex Parte Contacts*

[6] Plaintiffs complain that, following the due process hearing, lawyers for the School District had an *ex parte* contact with the hearing officer. The record reveals that on November 17, 1981, the attorney for the School District sent a letter supplying the hearing officer with copies of requested authorities. (Doc. 54). In addition to forwarding various cases, the letter highlighted the relevance of each case, and commented on the evidence submitted at the due process hearing. Although *ex parte* communications are generally discouraged, the Court finds that plaintiffs were not prejudiced by any communication between the hearing officer and the School District. First, the School District mailed Mr. Ahern a carbon copy of the letter sent to the hearing officer. Second, Mr. Ahern made no request to respond and, as far as

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entitled to private residential placement. *Id.* at 62.

[8] The Aherns' 1981–82 request was filed several months before administrative review of the 1980–81 request was complete. The state level review officer's decision denying funding for 1980–81 was issued on March 17, 1981. (Dkt. 32, at A-3). Defendants' counsel suggests it was not unreasonable to conclude that the IPRD committee was awaiting the outcome of the 1980–81 decision before rendering its decision on the 1981–82 request. The record, however, does not indicate whether the delay was occasioned by the pending 1980–81 decision.

the record indicates, had ample opportunity to send a similar letter. On the basis of those facts, I cannot conclude that plaintiffs' due process rights were violated.

4. *Failure to Swear Witnesses*

[7] Plaintiffs contend that the hearing officer's refusal to swear witnesses was a violation of procedural due process. Federal and state regulations in 1981, however, did not require witnesses to be under oath at the due process hearing. The Court knows of no authority to support plaintiffs' allegation and, after reviewing the transcript of the due process hearing, I find that plaintiffs suffered no prejudice from the failure to swear witnesses.

5. *Evidentiary Rulings*

[8] Plaintiffs argue that it was improper for the state level review officer to consider the decisions from the two prior administrative proceedings. The Court finds, however, that the officer's decision admitting reports from prior hearings was not an abuse of his discretion. As long as material is shared five days before the hearing, state regulations do not limit the type of evidence that can be considered. *See Administrative Manual* 15.

B. *The EAHCA's Guarantee of a Free Appropriate Public Education*

The basic dispute in this case is whether Alicia qualifies for residential placement. To resolve that question, the Court must first determine the parameters of a "free appropriate education," and then consider whether the program offered by the School District was reasonably calculated to enable Alicia to receive the benefits guaranteed by the Act.

The EAHCA provides that a state receiving federal grants under the Act must have in effect "a policy that assures all handicapped children the right to a free appropriate education." 20 U.S.C. § 1412(1).[9] The "free appropriate" education is tailored to the handicapped child's educational needs by means of an "individualized education program." ("IEP"). 20 U.S.C. § 1401(18).[10] Although states have the primary responsibility for developing educational programs for handicapped children, the Act expressly defines "free appropriate public education" as "special education and related services," which have been provided at public expense, under public supervision, and which meet state standards and conform with the child's IEP. 20 U.S.C. § 1401(18). Special education means "specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions." 20 U.S.C. § 1401(16). Related services include

> transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identifica-

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[9] The Delaware legislature's provision for establishing and funding a comprehensive special education for handicapped children is contained in 14 Del.C. §§ 3101–3126.

[10] The IEP is prepared at a meeting attended by a qualified representative of the local educational agency, the child's teacher, the child's parents or guardian, and, if appropriate, the child. It consists of

> (A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (D) the projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

20 U.S.C. § 1401(19). A child's IEP must be evaluated and reviewed at least annually. 20 U.S.C. § 1414(a)(5).

> tion and assessment of handicapping conditions in children.

20 U.S.C. § 1401(17).

In *Rowley* the Supreme Court explained that a free appropriate education "consists of educational instructions specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child 'to benefit' from the instruction." 458 U.S. at 188–89, 102 S.Ct. at 3041. The Act, however, does not require states to provide every special service necessary to maximize each handicapped child's potential commensurate with the opportunity provided nonhandicapped children. *Id.* at 200, 102 S.Ct. at 3047. Instead, the "basic floor of opportunity" guaranteed by the Act "consists of access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child." *Id.* at 201, 102 S.Ct. at 3048.[11]

Plaintiffs do not challenge the appropriateness of Alicia's 1981–82 IEP (Doc. 38). The program was developed at Benedictine and later adopted by the School District at IPRD committee meetings. (Docs. 42, 43). It outlines various educational and pre-vocational goals, focusing on Alicia's language, reading and math skills. The IEP also includes "counseling" and "guidance" objectives designed to improve Alicia's ability to interact with others in a responsible, mature, and appropriate manner, strengthen her self-image, increase her awareness of human sexuality, and reduce inappropriate behavior such as talking to herself and hugging strangers.

Plaintiffs agree the Bush School has programs that can implement the "educational" objectives of Alicia's IEP. *See* Transcript of April 4, 1984, Hearing at 33 (Dkt. 44). Indeed, achievement scores confirm that Alicia was working up to her ability at Bush and it appears that the improved Benedictine language, math, and reading scores could have been reached had Alicia remained in public school. *See* Tr. at 55–56. The Aherns, however, contend that Alicia's guidance and counseling goals can be treated only through a residential program which provides a 24-hour structure and continuous social interaction. Although Bush does provide needed structure and peer interaction, plaintiffs contend that Bush is not an appropriate educational placement because Alicia needs more than a six and a half hour a day program. Thus, from plaintiffs' vantage point, the issue is not whether Bush is adequate for what it offers, but whether Alicia needs more continuous care in order to receive an appropriate education.

[9] It is undisputed that "residential placement" in a private school is among the "related services" that states may be required to provide in order to fulfill their obligations under the EACHA. Federal regulations provide:

> If placement in a public or private residential program is necessary to provide a

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[11] In *Rowley* the Supreme Court opined that helping handicapped children achieve a reasonable degree of self-sufficiency is not a substantive goal of the EAHCA. Because handicapping conditions affect children in different degrees, the substantive goal of the Act is to provide services which are "educationally beneficial":

> The desire to provide handicapped children with an attainable degree of personal independence obviously anticipated that state educational programs would confer educational benefits upon such children. But at the same time, the goal of achieving some degree of self-sufficiency in most cases is a good deal more modest than the potential-maximizing goal adopted by the lower courts.
>
> Despite its frequent mention, we cannot conclude, as did the dissent in the Court of Appeals, that self-sufficiency was itself the substantive standard which Congress imposed upon the States. Because many mildly handicapped children will achieve self-sufficiency without state assistance while personal independence for the severely handicapped may be an unreachable goal, "self-sufficiency" as a substantive standard is at once an inadequate protection and an overly demanding requirement. We thus view these references in the legislative history as evidence of Congress' intention that the services provided handicapped children be educationally beneficial, whatever the nature or severity of their handicap.

458 U.S. at 201–02 n. 23, 102 S.Ct. at 3048 n. 23.

> handicapped person because of his or her handicap, the program, including non-medical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

34 C.F.R. § 104.33(3) (1981).[12] If, however, a handicapped child has available a free appropriate education and parents choose to place the child in a private program, the state is not required to fund that placement.

In *Kruelle v. New Castle County School District*, 642 F.2d 687 (1981), the Third Circuit Court of Appeals considered when a child's emotional and medical problems necessitate "residential placement" as part of the Act's guarantee of a free appropriate education. Presented with a profoundly retarded child, lacking many basic self-help skills and having a history of emotional problems which resulted in choking and self-induced vomiting when stressed, the *Kruelle* court explained that the "concept of education is necessarily broad" when evaluating the unique needs of the severely mentally handicapped. Where basic self-help and social skills are lacking, the Court said, "formal education begins at that point." *Id.* at 693, *quoting Battle v. Pennsylvania*, 629 F.2d 269, 275 (3d Cir.1980), *cert. denied*, 452 U.S. 968, 101 S.Ct. 3123, 69 L.Ed.2d 981 (1981). To determine is required, a court must analyse "whether full-time placement may be considered necessary for educational purposes, or whether the residential placement is a response to medical, social or emotional problems that are segregable from the learning process." *Id.* at 693. The EACHA, the Court held, requires a case by case assessment of "the link between the supportive service or educational placement and the child's learning needs." *Id.* at 694.[13] Noting that some courts have cast doubt on the viability of distinguishing between social/emotiona and educational disabilities, *see North v District of Columbia Board of Education* 471 F.Supp. 136, 141 (D.D.C.1979), the *Kruelle* court emphasized that the "claimed inextricability" of medical and educational grounds for certain services "does not signal court abdication from decision-making in different matters. Rather the unseverability of such needs is the very basis for holding that the services are an essential prerequisite for learning." 642 F.2d at 694.

[10] After reviewing the evidence in this case, the Court concludes that a residential program is not necessary to provide Alicia with an appropriate education. First, I find that Alicia's emotional problems are "segregable from the learning

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[12] Under Delaware's funding statute private placement funding is granted:

> only to a "complex or rare" handicapped person defined as a person in the chronological age group 4 through 20 years inclusive, who is found to suffer from 2 or more of the defined handicaps, or who is so severely afflicted by a single handicap, that the total impact of the condition means that he or she cannot benefit from the regularly offered free appropriate public educational programs. The determination shall be made by a committee appointed by the local board of education for identification, placement, review and dismissal of handicapped persons and by the State Board of Education that no school district or other state agency has a suitable free and appropriate program of education for the particular person. Such private placement shall be in a school/institution approved by the State Board of Education. The State Board of Education shall make the final determination concerning the designation of a person eligible under this definition.

14 *Del.C.* § 3124(a).

The State Board of Education, pursuant to 14 *Del.C.* § 3101(4), lists the following designated handicaps: visual or hearing impairment; physical impairment; speech and/or language impairment; learning disability; social or emotional maladjustment; mental retardation; autistic; complex or rare; gifted or talented; and deaf/blind. Administrative Manual at 21-25. If an individual has handicapping conditions "so severe or complex that no program can be provided," she is eligible for consideration for a residential program. *Id.* at 25.

[13] *See Battle v. Pennsylvania*, 629 F.2d at 280 (state's policy of refusing to consider or provide special educational programs for longer than 180 days is inconsistent with the Act's emphasis on developing a program individually designed to meet a child's unique needs).

[886]

process." Testimony and documentary evidence in this case confirm that Alicia's emotional problems, exhibited primarily in response to a stressful home environment,[14] were not interfering with her ability to benefit from the special education at Bush. Dr. Coleman's April 26, 1978, evaluation (Doc. 1) and a 1979 Student Progress Report (Doc. 2) support the finding that Alicia academically was achieving in the upper segment of the trainable mentally handicapped category and was making progress in the area of social development. Although during the 1978–79 academic year school officials were concerned that Alicia's academic progress was being hindered by anxiety, lack of confidence, daydreaming, and fantasizing (Doc. 3), both Mrs. Mazepink and Mrs. Dunigan testified at the due process hearing that these problems were being addressed by the school.[15] Thus, unlike the handicapped child in *Kruelle*, Alicia, in 1979, was making meaningful progress toward her educational goals, and had attained a degree of academic proficiency and self-sufficiency which placed her in the upper half of the population at Bush.

The opinions and recommendations expressed by plaintiffs' experts do not establish that Alicia needs a residential program in order for her to receive benefits. Dr. Berger explained that he had no first hand knowledge of either Benedictine or Bush, but that he recommended continued residential placement at Benedictine because, in his opinion, it would help maximize Alicia's ability to cope and relate in a more successful and competent manner. (Tr. at 33).[16] Dr. Berger did not testify that a residential program was the only means of meeting her emotional and educational needs.

I also find that the School District has met its burden of proving that it can provide Alicia with an appropriate education. The dispute in this case is not one in which the School District claims no responsibility for Alicia's emotional problems and social needs. *Cf. Christopher T. v. San Francisco Unified School District*, 553 F.Supp. 1107 (N.D.Cal.1982). IPRD's consideration and approval of her 1981–82 IEP (Doc. 43) indicates that the School District agrees that an appropriate education, tailored to Alicia's unique needs, includes pre-vocational training, guidance, and counseling.[17] Moreover, testimony at the due process hearing supports the state level review officer's finding that the Bush School has offered to and can meet the guidance and counseling components of Alicia's 1981–82 IEP. Dr. Coleman and Mrs. Mazepink both described specific programs, not available at Bush in 1979, which could meet the objectives outlined in Alicia's 1981–82 IEP. Dr. Coleman testified that Bush has a formal counseling program which includes sessions on human sexuality,[18] group discussions on attitudes toward the handicapped, and parent counseling. (Tr. at 21–22). In addition, Dr. Coleman explained that because Alicia's behavior problems were typical among students at Bush, counseling for basic social skills is "woven in the whole program." (Tr. at 25). Addressing Alicia's tendency to talk to herself and hug inappropriate people, Dr. Coleman testified that such problems can be controlled through the techniques of redirection and behavior modification. (Tr. at 24).[19]

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[14] *See, e.g.*, Doc. 6, p. 1–2; Doc. 3, p. 2; Tr. at 73.

[15] *See* text *supra* p. 7.

[16] Mrs. Myers, coordinator of clinic services at Delaware Guidance, testified that residential placement was "the treatment of choice." Tr. at 59.

[17] An IEP developed by NCCSD in 1980–81 (Doc. 28) is similar to Benedictine's 1981–82 IEP. NCCSD's 1980–81 IEP has a program to improve Alicia's economic and numerical skills, map skills, reading comprehension, and spelling. It also includes a program to decrease Alicia's day-dreaming and fantasizing and improve her self-concept through counseling sessions, and to develop domestic and food service skills.

[18] The human sexuality program at Bush is based on the same resources used at Benedictine. Tr. at 26.

Mrs. Mazepink testified to programs that could meet Alicia's pre-vocational goals. (Tr. at 46–48). Although not available in 1978–79, Mrs. Mazepink explained that Bush has a program to train students (ages 15 to 21) in various job categories and give them job-related skills. In addition, beginning in 1980–81 Bush implemented an independent living program, which gives students an opportunity to live in a structured apartment setting twenty-four hours a day, five days a week for eight weeks. Although the Bush School day officially ends at 2:30 p.m.,[20] there is also testimony from Dr. Coleman and Mrs. Mazepink that some extracurricular programs are provided and that the school helps parents mobilize community resources for after-school activities.

The Court concludes that the School District has considered Alicia's unique needs and has met its burden of proving by a preponderance of the evidence that it has programs to implement the guidance and counseling objectives of Alicia's 1981–82 IEP.[21]

IV. *Conclusion*

[11] No one can dispute that Alicia is better off because of her attendance at Benedictine: Alicia is more independent and self-aware, and exhibits few of the behavioral patterns which originally led the Aherns to seek a residential program. Although there is unrebutted evidence that Alicia's gains might be lost if her current placement is changed, I cannot on that basis conclude that residential placement is required. As the Supreme Court made clear in *Rowley*, the EAHCA does not require states to provide the best education that money can buy, nor are states required to provide education which maximizes a handicapped child's potential. Instead, states must offer a program from which the child can benefit. The School District's approach to Alicia represents a commendable effort at accommodating her unique needs. Undoubtedly, more can be done for children like Alicia. *See* Doc. 43 (Minority Report of Mary W. Lewis). However, on the basis of the record surrounding Alicia's 1981–82 placement, I find that the School District has offered a free appropriate program which can confer educational benefits on Alicia.

Judgment will be entered in favor of defendants.

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[19] IPRD committee meeting notes (Docs. 42, 43) reveal additional attempts to coordinate counselling and guidance services for Alicia.

[20] *See* Administrative Manual 31.

[21] Because the School District can provide an appropriate education through programs at Bush, the Court need not address whether the Aherns are barred from recovering tuition funds because of their actions in 1979. *Compare Stemple v. Board of Education of Prince Georges County*, 623 F.2d 893 (4th Cir.1980), *cert. denied*, 450 U.S. 911, 101 S.Ct. 1348, 67 L.Ed.2d 334 (1981) (tuition expenses cannot be recovered where parents unilaterally send child to private school during pendency of review procedures) *with Anderson v. Thompson*, 658 F.2d 1205 (7th Cir.1981) (retroactive award of tuition expenses is not barred even where parents act unilaterally).

Deborah BROOKHART, et al., Plaintiffs-Appellants, Cross-Appellees,

v.

ILLINOIS STATE BOARD OF EDUCATION, et al., Defendants-Appellees, Cross-Appellants.

Nos. 82-1659, 82-1718.

United States Court of Appeals,
Seventh Circuit.

Argued Oct. 25, 1982.

Decided Jan. 3, 1983.

CUMMINGS, Chief Judge.

Plaintiffs are fourteen handicapped[1] elementary and secondary students who are challenging a Peoria School District (School District) requirement that they pass a "Minimal Competency Test" (M.C.T.) in order to receive a high school diploma. After a hearing, the Illinois State Board of Education (State Board) issued an Administrative Order (A-46 to A-58) in which the State Superintendent of Education decided in favor of eleven of the plaintiffs, stating:

> (1) The State Board of Education has jurisdiction of this matter, (2) [The] Peoria Board of Education [has] the right to impose reasonable additional standards for graduation with a regular high school diploma, (3) Neither the *Education for All Handicapped Children Act*, (20 USC 1401 et seq.), nor Section 504 of the *Rehabilitation Act of 1973*, (29 USC 794), prohibit local school districts from requiring that exceptional students meet all otherwise reasonable standards for graduation including, on its face, the Minimal Competency Test, (4) Federal law requires that school districts make reasonable modifications to tests such as the Minimal Competency Test in order to minimize the effect of an individual student's handicapping condition, (5) Peoria District # 150 violated the "due process" rights of the petitioners by failing to give them adequate and timely notice that the Minimal Competency Test would be a prerequisite to the receipt of a diploma. Accordingly, the Board of Education of Peoria District # 150 is ordered to issue the petitioners regular high school diplomas in a manner consistent with this opinion and the individual orders attached hereto.

The State Superintendent also found that three of the plaintiffs did not have standing to challenge the M.C.T. An appeal by plaintiffs and the Peoria School District was taken to the district court[2] which held that there was no due process violation and reversed the order directing the School District to issue diplomas.[3] We reverse.

In the spring of 1978, the School District decided to require all students eligible for graduation in the spring of 1980 to pass an M.C.T. as a prerequisite to receipt of a diploma. The test is given each semester. It contains three parts—reading, language arts, and mathematics—and a student must score 70% on each part in order to receive a diploma. If a student fails any particular part, he is eligible to retake that part until he passes or becomes 21 years of age. Refresher courses are available during the school term and over the summer, though the summer program was on a tuition basis and scheduling problems made it impossible for a student to attend refresher courses in all three areas. Students who do not pass, but otherwise qualify for graduation, receive a Certificate of Program Completion at graduation time, and may continue to take the M.C.T. until age 21.

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[1] Plaintiffs manifested a broad spectrum of handicapping conditions. One student was physically handicapped, one was multiply handicapped, and four were educably mentally handicapped. The other eight were learning-disabled. (Pl.Br. 6.)

[2] Plaintiffs asked the court to sustain the order directing issuance of the diplomas and requiring appropriate modification of the M.C.T. for handicapped students, but also sought an order invalidating the M.C.T. and promulgating validation and modification guidelines. The State Board asked the district court to uphold the order and direct the School District to implement it. The School District asked the district court to affirm the portion of the order upholding the facial validity of the M.C.T. program but reverse the order insofar as it mandated issuing diplomas.

[610]

[3] The district court's jurisdiction was based on the Education of All Handicapped Children Act, 20 U.S.C. § 1415(e)(2), which provides that

> any party aggrieved by the findings and decision under subsection (c) of this section [providing for a hearing before the State educational agency], shall have the right to bring a civil action ... in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

After the M.C.T. policy was adopted in 1978, the School District undertook to notify students of the additional requirement through distribution of circulars in the schools, individual mailings to some parents, and repeated announcements in the mass media. The State Board said in its Administrative Order that "the record does not clearly establish how well these efforts succeeded, and in particular does not establish that they were adequate to bring notice of the additional requirement with all of its possible consequences to the attention of the parents of the exceptional children involved in these complaints." A-49. While apparently accepting this finding, the district court said that "there is neither evidence nor contention that any plaintiff here did not know of the graduation requirement of passing the M.C.T. more than a year before his or her scheduled graduation." *Brookhart v. Illinois State Board of Educ.*, 534 F.Supp. 725, 727 (C.D.Ill.1982). We disagree that such notice was adequate as discussed in Part 3 *infra*.

[1] Plaintiffs claim that the M.C.T. as applied to handicapped students violates federal and state statutes, as well as the due process and equal protection clauses of the Fourteenth Amendment. We note at the outset that in analyzing these claims deference is due the School District's educational and curricular decisions. See *Debra P. v. Turlington*, 644 F.2d 397 (5th Cir.1981), rehearing denied, 654 F.2d 1079 (1981); *Board of Educ. v. Ambach*, 107 Misc.2d 830, 436 N.Y.S.2d 564 (Sup.Ct.1981). The School District's desire to ensure the value of its diploma by requiring graduating students to attain minimal skills is admirable, and the courts will interfere with educational policy decisions only when necessary to protect individual statutory or constitutional rights.

[2] Before turning to the merits, we must address the question of standing to challenge the M.C.T. During the 1978/79 and 1979/80 school years, eleven of the plaintiffs who anticipated graduation in 1980 took the M.C.T. one or more times. None passed all three parts. Of the remaining three plaintiffs, one was eight years old at the time of the administrative hearing and had taken a portion of the third grade pilot M.C.T. while she was a special education pupil in the second grade; one was eleven years old and one was fifteen years old at the time of the hearing and both had not yet taken any portion of the M.C.T. (State Bd Br. 8). None of these three plaintiffs had standing to challenge the institution of the M.C.T. as a graduation requirement. Two of the plaintiffs did not take the test; the third took a pilot test, the failure of which could not have affected the awarding of a diploma, since she was only in the second grade. These plaintiffs may renew their claims, if appropriate, at a later date.[4]

1. Education for All Handicapped Children Act

Plaintiffs claim that the denial of diplomas in this case violates the Education for All Handicapped Children Act (EHA) because it denies the individual handicapped students a "free appropriate public education." 20 U.S.C. § 1412(1). The Supreme Court recently examined this statutory requirement in *Board of Educ. v. Rowley*, — U.S. ——, 102 S.Ct. 3034, 73 L.Ed.2d 690 (1982), a suit brought by a deaf elementary

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[4] In support of their claim that these three plaintiffs have interests which diverge from those of the other eleven, the State Board points to a 1981 amendment of Ill.Rev.Stat., ch. 122, ¶ 14-6.01. Prior to September 25, 1981, Illinois law authorized but did not require a school district "to issue certificates of graduation to handicapped pupils completing special education programs." The statute was amended in 1981 to read.

> No handicapped student may be denied promotion, graduation or a general diploma on the basis of failing a minimal competency test when such failure can be directly related to the student's handicapping condition. For the purpose of this Act, "minimal competency testing" is defined as tests which are constructed to measure the acquisition of skills to or beyond a certain defined standard.

The State suggests that the new statute might well preclude denying a diploma to these three even if their inability to learn is a result of a handicapping condition (State Bd. Br 19). The question is presently premature for resolution school student seeking a sign language interpreter. The Court noted that the Act expressly defines a "free appropriate public education" to mean

> special education and related services which (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required under section 1414(a)(5) of this title.

20 U.S.C. § 1401(18). The Court recognized that the "intent of the Act was more to open the door of public education to handicapped children on appropriate terms than to guarantee any particular level of education once inside."[5] — U.S. at —, 102 S.Ct. at 3042.

[3] This analysis implies that the EHA does not require "specific results," *Board of Educ. v. Ambach, supra* 436 N.Y.S.2d at 570, but rather only mandates access to specialized and individualized educational services for handicapped children. Denial of diplomas to handicapped children who have been receiving the special education and related services required by the Act, but are unable to achieve the educational level necessary to pass the M.C.T., is not a denial of a "free appropriate public education." *Board of Educ. v. Ambach, supra;* see also *Battle v. Pennsylvania,* 629 F.2d 269 (3d Cir.1980).

[4] Plaintiffs further contend that the imposition of the M.C.T. violates the EHA and corresponding regulation mandating that "no single procedure shall be the sole criterion for determining an appropriate educational program for a child." 20 U.S.C. § 1412(5)(C); see also 34 C.F.R. § 300.532 (1981). Yet plaintiffs admit that graduation requirements in Peoria are threefold: earning seventeen credits, completing State requirements such as a constitution test and a consumer education course, and passing the M.C.T. (Pl.Br. 31). In the face of this admission, passing the M.C.T. is clearly not the sole criterion for graduation.[6]

2. Rehabilitation Act of 1973

Plaintiffs also argue that application of the M.C.T. requirement constitutes unlawful discrimination under Section 504 of the Rehabilitation Act of 1973 (RHA), providing

> No otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . .

29 U.S.C. § 794. In *Southeastern Community College v. Davis,* 442 U.S. 397, 99 S.Ct. 2361, 60 L.Ed.2d 980, the Supreme Court held that an "otherwise qualified" individual entitled to the protection of Section 504 is "one who is able to meet all of a program's requirements in spite of his handicap." *Id.* at 406, 99 S.Ct. at 2367. The Court held that a State nursing program could deny admission to an applicant with a serious hearing disability because, *inter alia,* the training program required that students be able to communicate orally while attending patients or assisting in operations. The statute does not require "an educational institution to lower or to effect substantial modifications of standards to accommodate a handicapped person." *Id.* at 413, 99 S.Ct. at 2370.

[5] Plaintiffs in this case have no grounds on which to argue that the con-

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[5] The Court expressly rejected the district court's interpretation in *Rowley* that the disparity between the deaf student's "achievement and her potential" meant that she was not receiving a free appropriate public education. *Id.* at —, 102 S.Ct. at 3040.

[6] For the same reason, the M.C.T. requirement does not violate the State Board's regulation ensuring that "no single procedure is used as the sole criterion for determining an appropriate educational program for a child." Rule 9.11(6)(d), *Rules and Regulations To Govern the Administration and Operation of Special Education.*

[612]

tents of the M.C.T. are discriminatory solely because handicapped students who are incapable of attaining a level of minimal competency will fail the test. Altering the content of the M.C.T. to accommodate an individual's inability to learn the tested material because of his handicap would be a "substantial modification," 442 U.S. at 413, 99 S.Ct. at 2370, as well as a "perversion" of the diploma requirement. 534 F.Supp. at 728. A student who is unable to learn because of his handicap is surely not an individual who is qualified in spite of his handicap. Thus denial of a diploma because of inability to pass the M.C.T. is not discrimination under the RHA. *Board of Educ. v. Ambach, supra; Anderson v. Banks,* 520 F.Supp. 472, 511 (S.D.Ga.1981).

[6] However, an otherwise qualified student who is unable to disclose the degree of learning he actually possesses because of the test format or environment would be the object of discrimination solely on the basis of his handicap. It is apparent, as the district court said, that "to discover a blind person's knowledge, a test must be given orally or in braille ...." 534 F.Supp. at 728. According to the Superintendent, the School District "concedes that modification of the Minimal Competency Test must be made available to the handicapped," and offered to readminister the test with certain modifications.[7] We agree with the Superintendent that federal law requires administrative modification to minimize the effects of plaintiffs' handicaps on any future examinations.

Plaintiffs make one additional argument, urging that federal law requires tests to be validated separately for handicapped students. The purpose of validation is to determine whether tests are suited to the purposes for which they are used with respect to a particular testing population. Cf. *Larry P. v. Riles,* 495 F.Supp. 926, 968-973 (N.D.Cal.1979). It is true that federal regulations under both the RHA and the EHA specify that a test, at least with respect to evaluation and placement, must be selected and administered so that the "results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills ...." 34 C.F.R. §§ 104.35(b)(3) and 300.532(b)(3). However, we need not interpret the scope of these regulations to decide this case. Rather than issuing a broad order to the School District that might affect the validity of the M.C.T. for all handicapped students, we are deciding this case on less intrusive grounds, as explained *infra.*

3. The Due Process Claim

Plaintiffs' final argument is that the School District provided them inadequate notice of the M.C.T. requirement, thus depriving them of a protected liberty or property interest without due process of law.[8] Although the issues in this case do not fit easily into a traditional procedural due process analysis, we conclude, after close consideration, that the School District failed to satisfy constitutional requirements.

[7] The first question to be decided is whether the plaintiffs have a protected liberty or property interest at stake. Denial of a diploma clearly affects a student's reputation. It attaches a "stigma" that will

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[7] After the Administrative Order was issued, the School District agreed to administer the language arts test to plaintiff Ellen Ioerger with a large print booklet and to administer the mathematics and language arts test to plaintiff Deborah Brookhart in a small, quiet room. Neither plaintiff took advantage of this offer. (School Dist.Br. 29 and n. 12.)

[8] Plaintiffs also raise an equal protection claim for the first time on appeal. They appear to argue only that the M.C.T. requirement is invalid as applied to handicapped students, conceding that the "Peoria School District ... does have the prerogative to determine that the competency of graduating students is best ensured by determining that certain minimal standards of achievement have been met." (Pl.Br. 16.) Neither the Superintendent nor the district court addressed this issue, and for that reason we decline to do so now. *Sharp v. Ford Motor Credit Co.,* 615 F.2d 423, 424 n. 1 (7th Cir.1980). See also *Singleton v. Wulff,* 428 U.S. 106, 121, 96 S.Ct. 2868, 2877, 49 L.Ed.2d 826.

have potentially disastrous effects for future employment or educational opportunities. See *Board of Educ. v. Ambach, supra,* 436 N.Y.S.2d at 572–573. Though the Supreme Court held that injury to reputation alone does not implicate a liberty interest, *Paul v. Davis,* 424 U.S. 693, 701–702, 96 S.Ct. 1155, 1160–1161, 47 L.Ed.2d 405, it went on to say in the same opinion that liberty interests are implicated when injury to reputation is combined with "governmental action [that] deprived the individual of a right previously held under state law." *Id.* at 708–709, 96 S.Ct. at 1164. The Court in *Paul* reviewed its holding in *Goss v. Lopez,* 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725, involving the procedural due process rights accorded a student suspended from school on charges of misconduct. In holding that such a suspension implicated a protected liberty interest under the due process clause, the Court pointed to two factors. Not only could charges of misconduct seriously damage the student's reputation, but in addition "Ohio law conferred a right upon all children to attend school, and . . . the act of the school officials suspending the student there involved resulted in a denial or deprivation of that right." *Paul v. Davis, supra* 424 U.S. at 710, 96 S.Ct. at 1165. It was the removal of the right or interest "from the recognition and protection previously afforded by the State, which we found sufficient to invoke the procedural guarantees contained in the Due Process Clause of the Fourteenth Amendment." *Id.* at 711, 96 S.Ct. at 1165.

[8] Plaintiffs in this case have more than merely an interest in protecting their reputations and avoiding the stigma attached to failure to receive a high school diploma. They, too, as in *Goss v. Lopez, supra,* had a right conferred by state law to receive a diploma if they met the requirements imposed prior to 1978: completion of seventeen course credits and fulfillment of the State's graduation requirements. In changing the diploma requirement, the governmental action by the School District deprived the individual of a right or interest previously held under state law. Plaintiffs thus have a liberty interest sufficient to invoke the procedural protections of the due process clause. *Board of Educ. v. Ambach, supra* 436 N.Y.S.2d at 572–573.[9]

[9] The consequence of identifying a protected liberty interest is that governmental action cannot be used to deprive an individual of that interest without due process of law. Traditionally, a procedural due process right means "an opportunity to be heard on the factual basis underlying the loss of a liberty or property interest . . . ." *Anderson v. Banks, supra* at 504. A determination of what process is due involves defining the appropriate contours of the "opportunity to be heard." See *Goldberg v. Kelly,* 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 287. This case does not fit into the traditional procedural due process mold. Plaintiffs here do not contest the factual basis underlying the loss of a liberty interest; in fact, they admit that they did not pass the M.C.T. Rather, they demand procedures which would provide sufficient notice of the M.C.T. to enable them to prepare adequately to satisfy the new requirement.

We think that procedural due process protections are flexible enough to encompass notice of this kind. This approach has been followed by the Fifth Circuit and the New York State Supreme Court. In *Mahavongsanan v. Hall,* 529 F.2d 448 (5th Cir. 1976), Georgia State University instituted a new degree requirement (consisting of a comprehensive examination) after plaintiff had begun the masters program but before her graduation. In rejecting both procedural and substantive due process claims, the court emphasized that plaintiff received "timely notice" of the new examination; "ample notice to prepare;" and a "reasonable opportunity to complete additional course work in lieu of the comprehensive examination." *Id.* at 450. The issue arose again in *Debra P. v. Turlington,* 644 F.2d

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[9] Some courts have held that state law creates a legitimate expectation of receipt of a diploma, thereby creating a property interest for purposes of due process analysis. See *Board of Educ. v. Ambach, supra* 436 N.Y.S.2d at 572; *Debra P. v. Turlington, supra* at 403–404.

397, 403–404 (1981), where the Fifth Circuit stated its view that inadequate notice to students that they would be required to pass an exit examination before qualifying for a diploma violated procedural due process. *Board of Educ. v. Ambach,* 107 Misc.2d 830, 436 N.Y.S.2d 564, 573–575 (Sup.Ct. 1981), was a case essentially "on all fours" with this one. After finding that two handicapped plaintiffs had a protected liberty or property interest in receipt of a diploma, the court held that the school board unconstitutionally deprived them of their interest because inadequate notice precluded preparation for the exam. Following these precedents, we hold that plaintiffs were entitled to notice permitting reasonable preparation for the M.C.T.

This holding does bear some resemblance to a substantive, rather than a procedural due process holding.[18] See *Anderson v. Banks, supra* at 505. As a matter of procedural due process, plaintiffs have a liberty interest in receipt of a diploma that cannot be infringed without notice. Yet, as a matter of substantive due process, the nature of plaintiffs' right is by necessity limited by the School District's authority to change the diploma requirements. Plaintiffs' substantive right therefore is better defined as a right to adequate notice of any new diploma requirement in order to allow time to prepare. Denial of sufficient notice would make denial of a diploma and its attendant injury to reputation fundamentally unfair. *Debra P. v. Turlington, supra* at 404.

[10] We must now consider whether the notice provided to plaintiffs was sufficient to satisfy constitutional requisites. The older eleven plaintiffs were informed that they were subject to the M.C.T. requirement during their junior year in high school. The State Superintendent found they therefore had approximately one and a half years to master the skills necessary to pass the M.C.T. (App. 56); the district court found that all plaintiffs had notice of the M.C.T. requirement one year prior to graduation. 534 F.Supp. at 727. Despite the fact that plaintiffs had between a year and a year and a half to be exposed to the material on the M.C.T., the record shows that individual petitioners lacked exposure to as much as 90% of the material tested (App. 56).

Plaintiffs' educational programs were developed in accordance with 20 U.S.C. § 1414(a)(5) requiring that each handicapped student receive an individualized educational program (IEP). An IEP is developed through the cooperative efforts of parents, teachers, and school administrators. Tr.Vol. I, at 148. Plaintiffs' expert at the hearing developed a matrix by which to compare the goals and objectives of the M.C.T. with the goals and objectives of plaintiffs' IEP's. The matrix indicated that as much as 90% of the material on the M.C.T. did not appear on the IEP's (App. 50, 56). The district court found that the "only possible reason" for the lack of exposure was that the students were incapable of learning the material, 534 F.Supp. at 730, and that therefore the amount of time provided the students for preparation was irrelevant. We agree with the State Superintendent's argument that this was error (State Bd. Br. at 28). First, several plaintiffs passed various parts of the M.C.T., thus indicating that the problem is not uniformly a lack of innate mental capacity. Second, Dr. Aaron Gray, Assistant Superintendent of Special Services in Peoria School District # 150, testified at the hearing that it is impossible to know which special education students will pass the M.C.T. and which will not, and that predicting whether a child has the ability to pass "is something that a responsible professional would not do." Tr.Vol. I, at 134. One of the School District's experts, Dr. Siegfried Mueller, first testified that one should not assume that any student cannot pass the M.C.T. The answer was then modified to allow for such an assumption if, for example, a twenty-one-year-old student who has been working with a teacher or administrator for sixteen years is still scoring only ten instead of seventy on the exam, and then only "after a lot of evidence." Tr.Vol. I, at 72–73. The fact that the School District requires all handicapped students except those classified as trainable mentally handicapped to take the M.C.T. at least once (Tr.Vol. I, at 91-92) indicates that administrators are reluctant to speculate on the innate abilities or limitations of their students.

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[18] For a discussion of their overlap, see Easterbrook, *Substance and Due Process,* 1982 Sup. Ct.Rev.

Finally, rather than reflecting an incapacity to pass the M.C.T., the record reflects that the plaintiffs' programs of instruction were not developed to meet the goal of passing the M.C.T., but were instead geared to address individual educational needs. Since plaintiffs and their parents knew of the M.C.T. requirements only one to one and a half years prior to the students' anticipated graduation, the M.C.T. objectives could not have been specifically incorporated into the IEP's over a period of years. If they were incorporated at all, it could only have been during the most recent year and a half. As the Superintendent found, "in an educational system that assumes special education students learn at a slower rate than regular division students," a year and a half at most to prepare for the M.C.T. is insufficient. Thus the length of the notice, rather than a deliberate decision not to instruct plaintiffs because of their incapacity to master the material, explains the overwhelming lack of exposure to M.C.T. goals and objectives.

There is some evidence in the record that after being informed of the M.C.T. requirement, several parents preferred to emphasize aspects of plaintiffs' education other than M.C.T. preparation. In the long run, as Dr. Mueller pointed out, parents and teachers may evaluate students and conclude that energies would be more profitably directed toward areas other than M.C.T. preparation; toward, for example, vocational training. Here however parents had only a year to a year and a half to evaluate properly their children's abilities and redirect their educational goals. We agree with the parents and the State Board that this was insufficient time to make an informed decision about inclusion or exclusion of training on M.C.T. objectives.

[11] The analysis prescribed by the Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18, also dictates advance notice. The private interest at stake here is an interest in protecting reputation and in qualifying for future employment opportunities. The governmental interest in upgrading the value of a diploma is also significant. However, the risk of an erroneous deprivation of plaintiffs' interest in this case is overwhelming because of the near-total lack of exposure to the material tested. Requiring earlier notice and the attendant opportunity to learn the material will greatly decrease the risk of erroneous deprivation.

As described in *Board of Educ. v. Ambach, supra*, 436 N.Y.S.2d at 574–575, early notice would thus have benefitted plaintiffs in two ways: it "would allow for proper consideration of whether the goals of the students' IEP's should include preparation for the [M.C.T.] and would afford an appropriate time for instruction aimed at reaching that goal." We conclude that a year to a year and a half, in light of plaintiffs' overwhelming lack of exposure to the goals and objectives of the M.C.T., is constitutionally inadequate notice. See *Board of Educ. v. Ambach, supra*, at 574–575 (less than two school years is inadequate notice); but see *Anderson v. Banks*, 520 F.Supp. 472, 505–506 (S.D.Ga.1981) (twenty-four months is adequate notice); *Wells v. Banks*, 153 Ga. App. 581, 266 S.E.2d 270 (1980) (adequate notice though no specific time mentioned). Though we are unable on this record to define "adequate notice" in terms of a specific number of years, the School District can be assured that the requirement would be satisfied if one of the following two conditions for adequate notice is met. The School District can, first, ensure that handicapped students are sufficiently exposed to most of the material that appears on the M.C.T., or, second, they can produce evidence of a reasoned and well-informed decision by the parents and teachers involved that a particular high school student will be better off concentrating on educational objectives other than preparation for the M.C.T.

[12] We turn finally to the question of remedy. Plaintiffs argue that the only proper remedy is issuance of diplomas, and the district court apparently agreed, stating that "if the M.C.T. program is constitutionally invalid as applied to these students, there is no impediment to issuance of the diplomas." 534 F.Supp. at 729. The School District suggests that plaintiffs should be denied diplomas, but allowed more time to participate in remedial classes and further opportunities to take the M.C.T.

The School District's position is not without merit. Some plaintiffs might have failed the M.C.T. despite decades of preparation; others might have opted out of it even if notified years in advance. By awarding these plaintiffs diplomas, the School District would be putting them in a better position than they would have been in had there been no due process violation. Traditionally, procedural due process remedies provide plaintiffs only with an opportunity to prove their eligibility for a benefit, rather than providing the benefit itself. See *Goldberg v. Kelly*, 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 287 (welfare benefits provided on interim basis pending hearing on eligibility and subject to recoupment). Awarding diplomas here would amount to awarding the benefit itself. Substantively, the due process right is not a right to a diploma, see *supra* p. 186, but rather a right to adequate notice in order to prepare for the new requirement. Thus the appropriate remedy for the denial of this right is an extended period for preparation.

Plaintiffs argue that it is impossible to put them back in the position that they would have been in had they received adequate notice while still in school. Several are employed and would be forced to leave their jobs in order to participate in the remedial program and prepare for the M.C.T. Eleven plaintiffs have been away from school for over two years, since June of 1980, and it would be difficult, both psychologically and academically, for them to make up for lost time. They ask, essentially, why they should endure these hardships when the School District was at fault for providing inadequate notice.

We agree with the School District that, in theory, the proper remedy for a violation of this kind is to require it to provide free, remedial, special education classes to ensure exposure to the material tested on the M.C.T., and a reasonable opportunity for plaintiffs to learn that material. We take note of the fact that the School District presently offers such courses (Tr.Vol. 1, at 143–144), and we advise future handicapped students to bypass the courts and enroll in those courses when necessary. In this particular case however it is unrealistic to assume that eleven of these plaintiffs would be able to return to school without undue hardship. Consequently, the School District may not require those plaintiffs to pass the M.C.T. as a prerequisite for a diploma.

The judgment of the district court is reversed with directions to order the School District to issue high school diplomas to the eleven plaintiffs who satisfy the remaining graduation requirements.

T.G. and P.G., Individually, and on Behalf of Their Infant Child, "D.G.", Plaintiffs,

v.

BOARD OF EDUCATION OF PISCATAWAY, N.J., and the Community Mental Health Center of Rutgers Medical School, Defendants

v.

PRUDENTIAL INSURANCE COMPANY OF AMERICA, INC., and Blue Cross-Blue Shield, Third-Party Defendants.

Civ. A. No. 82–3948.

United States District Court,
D. New Jersey.

Dec. 12, 1983.

Theodore A. Sussan, Spotswood, N.J., for plaintiffs.

Irwin I. Kimmelman, Atty. Gen. of New Jersey by Robert K. Walsh, Newark, N.J., for Defendant Community Mental Health

Center of the University of Medicine & Dentistry of N.J.

Pitney, Hardin, Kipp & Szuch, by Peter Laughlin, Newark, N.J., for third party defendant Blue Cross Plan of N.J.

Rubin, Lerner & Rubin by David B. Rubin, New Brunswick, N.J., for defendant Board of Educ. of Piscataway.

Shanley & Fisher by Charles A. Reid, III, Newark, N.J., for third party defendant Prudential Ins. Co. of America, Inc.

Vanderbilt & Siegel by Alan A. Siegel, Livingston, N.J., for third party defendant Blue Shield Plan of N.J.

HAROLD A. ACKERMAN, District Judge.

This matter arises under the Education For All Handicapped Children Act, 20 U.S.C. § 1401 *et seq.* (the Act). Plaintiff D.G. is an eleven-year old boy who was classified as emotionally disturbed by the Child Study Team (CST) of the defendant Board of Education of Piscataway (Board). D.G. and his parents T.G. and P.G. commenced this action on November 22, 1982, seeking to have the defendant Board pay the principal charges plus any interest due and owing to the defendant Community Mental Health Center of the Rutgers Medical School for "psychotherapy" services allegedly provided as part of plaintiff D.G.'s Individualized Education Plan (IEP) developed by the CST. The defendant Community Mental Health Center has counterclaimed for the amount due and owing, cross-claimed for same against the defendant Board, and impleaded the Prudential Insurance Company of America, Blue Cross of New Jersey, and Blue Shield of New Jersey, all of whom are plaintiff T.G.'s health insurance carriers. This matter is presently before me on motions for summary judgment brought by plaintiffs, defendant Board of Education, and by third-party defendants Prudential Insurance Company of America, Blue Cross of New Jersey and Blue Shield of New Jersey.

[1] Rule 56 of the Federal Rules of Civil Procedure provides that summary judgment is not to be granted unless, after all reasonable inferences have been drawn in favor of the non-moving party, there remains no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *See DeLong Corp. v. Raymond International,* 622 F.2d 1135 (3d Cir.1980). With this standard in mind, I turn first to consider plaintiffs' motion for summary judgment. For the reasons which follow, I have determined to grant plaintiffs' motion.

The undisputed facts relevant to this motion are as follows: Pursuant to the requirements of the Act, the Child Study Team of the defendant Board carefully evaluated plaintiff D.G.'s condition and as a result classified him as emotionally disturbed. Following discussion with D.G.'s parents, the CST recommended that D.G. be placed in a therapeutic environment in order to maximize the benefits he would receive. Specifically, the Child Study Team's IEP recommended that D.G. "[b]e provided with a totally therapeutic environment in a special education day school for the Emotionally Disturbed that will provide him with the controls and individual attention necessary for his social and emotional development. This is viewed as the least restrictive environment to meet his needs." It was agreed upon between the defendant Board and D.G.'s parents that the child would be placed in the Child Day Hospital of the Community Mental Health Center of the Rutgers Medical School, University of Medicine and Dentistry of New Jersey. This placement commenced on September 30, 1980.

The Child Day Hospital is a specialized treatment program for seriously emotionally impaired children. As such, the Hospital provides, in its own words, "individual child psychotherapy, family therapy, and a broad spectrum of milieu therapy on an integrated, intensive basis." Educational services are also provided in an effort to enhance learning by each of the children involved while they are in therapy. When D.G.'s parents placed him in the Child Day Hospital, they were told that the program required without exception that every child participate in the "therapeutic treatment" portion of the day program.

D.G. remained at the Hospital until January 20, 1983, when, due to the success of the Hospital's program, he was able to return to his local school. The program at the Hospital had consisted of individual child psychotherapy two days a week, family therapy with the parents, and with or without the child, weekly or as indicated, mileau therapy on a daily basis, including therapeutic activity group, individual and group counseling and behavior modification, as well as special education on a daily basis in self-contained and departmentalized classes.

On October 24, 1980, plaintiffs T.G. and P.G. were informed by the Community Mental Health Center that the psychotherapy provided to D.G. as part of the Hospital's program would be assessed to them, and not to the school district, and that it would be charged at a rate of $45.00 per day. The Center has to date received no payments for these charges, which at the time of D.G.'s discharge had grown to a total of $25,200.00.

In 1982 the parents sought to have the Board take responsibility for the cost of the psychotherapy. The Board refused to do so, giving the parents three reasons for its decision. First, it suggested that psychotherapy was not part of the IEP agreed to by both the Board and the parents. Second, it pointed to the fact that the New Jersey Department of Education had issued a policy statement to the effect that "psychotherapy" other than that necessary for diagnostic and evaluative purposes, was not a "related service" for which a local school district would be responsible under the mandate of the Act. Finally, the defendant Board took the position that nothing else in the Act or its implementing regulations required it to pay for this service. Plaintiffs then as now responded that psychotherapy is a "related service" within the meaning of the Act, and that in any event it was an integral and, in fact, required part of the Independent Education Program agreed upon by the defendant Board, the cost of which should be borne by the Board.

The Education For All Handicapped Children Act requires that all handicapped children be provided, at public expense, with a "free appropriate public education which emphasizes special education and related services designed to meet their unique needs." 20 U.S.C. § 1400(c). As Justice Rehnquist, speaking for the Supreme Court in *Board of Education v. Rowley,* 176 U.S. 458, 102 S.Ct. 3034, 73 L.Ed.2d 690 (1982), stated, "the Act represents an ambitious federal effort to promote the education of handicapped children, and was passed in response to Congress' perception that a majority of handicapped children in the United States 'were either totally excluded from schools or [were] sitting idly in regular classrooms awaiting the time when they were old enough to "drop out"' ". *Id.* at 179, 102 S.Ct. at 3037 (citations omitted).

Under the Act, the "free appropriate public education" to be provided must be specially "tailored to meet the unique needs of the handicapped child" by means of the IEP. *Id.* at 181, 102 S.Ct. at 3038. The IEP is to be prepared at a meeting between a qualified representative of the local educational agency, the child's teacher, the child's parents or guardians, and where appropriate, the child. Local educational authorities must review, and if necessary, revise each child's IEP, including its statement of goals and objectives and list of specific services to be provided, at least annually. 20 U.S.C. § 1414(a)(5).

[2] Here there is no dispute that an appropriate IEP was prepared and agreed upon by the defendant Board and plaintiff parents. Further, there is no dispute that these parties also agreed to the implementation of the IEP through D.G.'s placement in the Child Day Hospital. The sole issue before me is whether the "psychotherapy" or counseling services provided by the Hospital staff to D.G. constitutes a covered "related service" within the meaning of 20 U.S.C. § 1400(c).

The Act itself provides the starting point for my analysis. Section 1401(17) provides that:

> The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling service, except that such medical services shall be for diagnostic and evaluative purposes only) as may be required to assist a handicapped child to benefit from special education..."

The Federal Regulations promulgated pursuant to the Act provide a further layer of definitions. 34 C.F.R. § 300.13(b)(8) provides that "psychological services" as used in the Act includes:

> ... (V) Planning and managing a program of psychological services, including psychological counseling for children and parents.

Additionally, 34 C.F.R. § 300.13(b)(2) provides that " 'Counseling services' means services provided by qualified social workers, psychologists guidance counselors, or other qualified personnel."

Thus, while no explicit reference to "psychotherapy" is made in either the Act or the regulations, the definitions of "related services" which are provided are indicative of a Congressional intent to include it where appropriate among those services to be provided at no cost to the parents under the Act. This conclusion is reinforced by the fact that the only two published opinions on this issue have both reached the same result. *See Papacoda v. State of Connecticut*, 528 F.Supp. 68 (D.Conn.1981); and *In the Matter of the "A" Family*, 184 Mont. 145, 602 P.2d 157 (1979). In the latter of these two cases, the Montana Supreme Court determined that, as a matter of federal law, the psychotherapy provided to an emotionally disturbed child who was placed in a residential setting pursuant to his IEP was a "related service" under the Act, despite the fact that the Montana State Board of Education had promulgated regulations which considered psychiatric therapy to be outside the definition of "related services" and thus chargeable to the parents. The Montana Supreme Court held that the federal regulations defining "related services" and "psychological services" superceded the inconsistent state regulations. In *Papacoda*, the District Court held that psychotherapy provided to an emotionally disturbed child as an integral part of that child's special education was a "related service" within the meaning of the Act.

Both of these opinions pre-dated the Supreme Court's opinion in *Board of Education v. Rowley*. I find, however, that *Rowley* does not require a different result. In *Rowley*, the respondents—the parents of a child with only minimal residual hearing who had been furnished by the petitioner Board with a hearing aid for use in the classroom and who received additional instruction from tutors—filed suit to review a decision denying their request for a sign-language interpreter to accompany the child in all her classes. The District Court, although finding that she performed better than the average child in her class and was advancing easily from grade to grade, determined that she was not performing as well academically as she would without her handicap. 483 F.Supp. 528, 532. This disparity between her achievement and her potential led the district court to decide that she was not receiving a "free appropriate education," which it defined as "an opportunity to achieve [her] full potential commensurate with the opportunity provided to other children." *Id.* at 534. A divided panel of the Second Circuit affirmed. The Supreme Court reversed, holding that the Act's requirement is satisfied by the Board's provision of "personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." 458 U.S. at 203, 102 S.Ct. at 3049. The Court noted that "such instruction and services must be provided at public expense, must meet the State's educational standards, must approximate the grade levels used in the State's regular education, and must comport with the child's I.E.P." *Id.*

I conclude that the therapy provided to D.G. at the Child Day Hospital is of a different nature from the extraordinary sign-language services requested for the handicapped child in *Rowley*. To the contrary, both the defendant Board and the plaintiff parents agreed upon D.G.'s placement at Child Day Hospital, and the therapy provided to D.G. by the Hospital was a required part of its program. As such, the therapy was designed as an essential service to allow D.G. to simply benefit from the educational program planned for him. It was not designed as part of a package to maximize his performance in accordance with his potential, as was the case in *Rowley*.

Additionally, while sign language translation services are not mentioned in either the Act or its regulations, both mention psychological services. In fact it is undisputed here that the so-called psychotherapy which D.G. received at the Hospital, while administered under the supervision of a trained psychiatrist, was actually provided on a day-to-day basis by a staff member with no more credentials than a Masters in Social Work degree. Thus D.G.'s therapy might be described equally appropriately as "counseling services" or "psychological counseling"—both of which are specifically included by the regulations among the "related services" required to be provided at no cost to the parents under the Act.

[3] My conclusion that the services received by D.G. must be paid for by the defendant Board is unaffected by its argument that New Jersey's policy is to the contrary. The defendant Board has submitted a copy of a "Policy Statement" by James W. Richardson, Director of the Bureau of Special Education of the New Jersey Department of Education concluding that " 'psychotherapy,' as a related service that goes beyond that which can be educationally provided by personnel employed by the local school district, is not the responsibility of the local school district." In so stating, Mr. Richardson relies on the definition of "related services" found in Section 6:28-1.2 of the N.J.Admin.Code. I find, however, that the definitions contained in the federal regulations must supercede inconsistent state regulations and "policy statements." *See* 34 C.F.R. § 300.2(a).

In these circumstances I find that the therapy provided to D.G. falls within the category of "related services" the cost of which must be assumed by the defendant Board of Education of Piscataway. I will therefore grant plaintiffs' motion for summary judgment as against the defendant Board.

In light of this disposition of plaintiffs' motion, I will also grant the motions for dismissal by third-party defendants Prudential Insurance Company of America, Blue Cross of New Jersey and Blue Shield of New Jersey.

COMMUNICATION/COORDINATION: THE REFERRAL PROCESS

Communication/Coordination: The Referral Process

Session Objectives

At the conclusion of the workshop session, the public school administrator will:

1. Know/review the major concepts of the Education for All Handicapped Children Act (P.L. 94-142).
2. Know the procedure of Referral for Evaluation relative to federal and state guidelines.
3. Identify and know the procedure, personnel roles and responsibilities for the Referral to Placement Process in his/her county.
4. Identify facilitative strategies currently employed to reduce delays in referral in specific county sites.
5. Identify factors that currently cause significant delays in referral in specific county sites.
6. Identify necessary considerations for future planning in order to plan the referral process in his/her county.
7. Know the "Good Practices" for solving some of the common problems identified in the referral process.

(8.) Identify common problems in the county for successfully implementing the referral process.

Workshop Outline

Content Outline for Trainer
(Estimated presentation time: 55 minutes)

I. Purpose of P.L. 94-142

- * Trainer Directions
- * Handout 1 - FAPE

II. Referral to placement process - Assuring a handicapped child a FAPE

- * Trainer Directions
- * Handout 2 - Procedures for Determining Educational Assignments and Developing IEP Plans
- * Handout 3 - Referral for Evaluation
- * Activity 1 - Worksheet - Referral to Placement Process

III. Awareness of roles and responsibilities in placement process

- * Activity 2 - Worksheet - Referral to Placement Process - Responsibility Checklist

IV. Individual county evaluation of the referral process

- * Overheads and Activity 3 - Worksheet ...which include the following statements:

    1. Examples of facilitative strategies currently employed to reduce delays in referral in your county.

    2. Factors that currently cause significant delays in referral in your county.

    3. Necessary considerations for future planning in order to plan the referral process in your county.

V. Overheads - Best practices for common problems identified in the referral process.

VI. Discussion/Decision of including the referral process in ICP.

FAPE

FREE APPROPRIATE PUBLIC EDUCATION

A new law is being implemented in many of the nation's classrooms. That law, the Education For All Handicapped Children Act (P.L. 94-142), is changing the way we educate our handicapped children. For the first time, these youngsters who need special education and related services have been guaranteed a public education tailored to their unique needs.

The following are some questions and answers about the act.

1. WHAT IS THE PURPOSE OF THE ACT?

The act is designed to:

assure that all handicapped children have available to them a free appropriate public education, geared to their own unique needs;

protect the educational rights of these children and their parents or guardians;

help local education agencies, such as school districts, to provide such an education, and;

provide continuous checks to assure that programs for handicapped children are effective in helping them realize their potential.

2. WHY WAS THIS LAW NEEDED?

Studies conducted before the law was passed showed that more than half the handicapped children in this country were not receiving an education appropriate to their special needs. Others reportedly were struggling in regular classrooms because their handicapping problems had gone undetected. In addition, one million had been excluded entirely from the public school system.

3. WHAT IS MEANT BY "FREE APPROPRIATE PUBLIC EDUCATION"?

Special education and related services are to be provided at public expense, under public supervision and direction, and without charge. Handicapped children are to have available to them the variety of educational programs and services available to non-handicapped children in the area served by the local education agency, such as art, music, industrial arts, and vocational education. In addition, participation in the regular program of physical education or in a specially designed program is to be made available to every handicapped child who is receiving a free appropriate public education.

4. DOES "FREE APPROPRIATE PUBLIC EDUCATION" APPLY TO STUDENTS ENROLLED IN APPROVED PRIVATE SCHOOLS?

Yes. If placement in an approved private school is necessary to provide special education and related services to a handicapped child, the program must be provided at no cost to the child's parents. If a free appropriate public education is available, and the parent chooses not to accept it, but rather to send the child to a private school, the parent must bear the cost of the private school. Private schools, in conjunction with local school districts, must insure that individualized educational programs are maintained for each child.

5. WHAT IS THE DEFINITION OF "HANDICAPPED"?

A "handicapped" child is a school-aged child who differs from a normal child, and because of that difference, requires special educational services in order to learn to his full capacity. This includes children with physical and/or mental handicaps. Although this federal law does not include the gifted and talented in its definition, the State of West Virginia does include them in its standards.

6. WHAT TIMELINES HAVE BEEN ESTABLISHED FOR IMPLEMENTATION?

The law began to be implemented with the September, 1977 school term. By September, 1978, a free appropriate public education was to have been made available to all handicapped children aged 3 through 18. Presently, a free appropriate public education is to be available for all handicapped children in West Virginia between the ages of 5 and 23.

7. WERE PRIORITIES ESTABLISHED?

Yes. Services are to be provided first to handicapped children who are not in school at all, and then to the most severely handicapped, within each disability, who are not receiving all the educational services they need.

Purpose of P.L. 94-142

Trainer Directions

1. Distribute Handout 1.
2. Review the handout with the participants and highlight the following:
    a. Definition of "free appropriate public education"
    b. Definition of "handicapped"
    c. Timelines for provision of services
3. Allow time for questions.

Estimated time: 10 minutes

Referral to Placement Process

Trainer Directions for Activity

1. Refer to Handout 2 - Procedures for Determining Educational Assignments and Developing I.E.P. Plans. Indicate that this can be a resource material in the referral process.

2. Give participants time to familiarize themselves with the flow chart - Handout 3 - so they can use it as a reference document in the next situational activity.

3. Present the situations from Worksheet - Activity I - to the participants, and ask them to use the flow chart to pinpoint the next step to be taken in the placement process for each situation. Participants should fill in responses individually.

4. Discussion: Answers may be shared.

Estimated time: 10 minutes - (5 minutes for individual response and 5 minutes for group discussion)

HANDOUT 2

PROCEDURES FOR DETERMINING EDUCATIONAL ASSIGNMENTS AND DEVELOPING IEP PLANS

Local Education Agency-Initiated IEPs

Request Permission to Evaluate a Student Who is Not Receiving a Special Education Instructional Program

When a student is thought to be exceptional, the local education agency may initiate the IEP process by referring the student for evaluation. The local education agency must seek written permission from the parent, guardian or surrogate parent and, when appropriate, the student before performing the evaluation, when the student has been individually selected as a person in need of evaluation. This permission may be sought at a meeting or by letter.

No Response

If the LEA receives no response from the parent, guardian or surrogate parent and, when appropriate, the student, the agency should follow-up by telephone contact or conference or home visit, if necessary. If follow-up procedures fail to gain a response, the LEA has two options:

1. Request a hearing to determine whether to proceed with the proposed evaluation.

2. Cancel plans to conduct the evaluation.

Disapproval

If the parent, guardian or surrogate parent and, when appropriate, the student, disapprove of the proposed evaluation, the LEA has three options:

1. Request an immediate conference to further explain the agency's concerns via telephone, home visit or at the school.

2. If the conference fails to result in permission to evaluate, the LEA has two options:

    a. Request a hearing to determine whether to proceed with the proposed evaluation.

    b. Cancel plans to conduct the evaluation.

Approval

If the parent, guardian or surrogate parent, and when appropriate, the student, approve the proposed evaluation, the LEA should complete the evaluation as planned.

Review of Evaluation Data

All evaluation data must be reviewed and interpreted by a certified school psychologist (except for speech and language-impaired), the student's present teacher and a supervisor of special education, a school administrator or other persons knowledgeable about the program and service options which may be appropriate for the student.

Student Found Not to be Exceptional

If the review and interpretation result in the conclusion that the student is not exceptional, the parent, guardian or surrogate parent and, when appropriate, the student must be notified in writing (either by mail or at a conference). This notice should inform the student, parent, guardian or surrogate parent of his or her right to:

1. Review all data collected on the student.

2. Request a pre-hearing conference.

3. Request a hearing.

Student Found to be Exceptional

If the LEA determines, through the evaluation, that the student is exceptional, a request is to be sent, or given, to the parent, guardian or surrogate parent, and, when appropriate, the student to invite their participation in an IEP planning meeting, where an Individual Education Program (IEP) plan will be developed. If the student, parent, guardian or surrogate parent does not choose to participate in the planning meeting, this can be indicated by checking the appropriate box.

In addition to considering the program, the IEP planning meeting provides a forum for discussing placement and is one safeguard against inappropriate placement within the requirements of least restrictive environment.

It may be necessary to hold more than one IEP planning meeting in order to accomplish the goal of an individualized education program plan for a student.

Decision Not to Participate in IEP Planning Meeting

If the student, parent, guardian or surrogate parent does not choose to participate in the IEP planning meeting(s), document all efforts made (letters, telephone calls, visits, etc.) to contact them to encourage their participation. If all efforts remain unsuccessful, the LEA will hold an IEP planning meeting(s) without them. An IEP will be developed for the student. It will be sent by certified mail or given, with the due process notice, to the parent, guardian or surrogate parent and, when appropriate, the student.

The student, parent, guardian or surrogate parent will have three options:

1. Return the due process response form (first page) of due process notice, approving placement and the program within 10 days after it is received by certified mail or within 5 days, if given to them at a meeting. The IEP plan is then implemented.

2. Return the due process response form disapproving the placement and program requesting a pre-hearing conference. This conference must then be scheduled, by the school district, within 10 days of receipt of the parent request.

3. If the student, parent, guardian or surrogate parent fails to return the due process response form within 10 days of receipt of the notice, approval is assumed and the LEA may initiate the IEP plan.

Participation in IEP Planning Meeting

If the student, parent, guardian or surrogate parent indicates his/her wish to participate and does participate in the IEP planning meeting, an IEP plan is to be developed at that meeting. Every effort must be made at the meeting(s) to reach an amicable agreement on appropriate program and placement in the best interest of the student. At the end of this meeting, if a finalized IEP is written, the IEP and the due process notice can be given to the student, parent, guardian or surrogate parent.

Due Process Notice	If the IEP is not finalized at the IEP planning meeting, it must be completed and sent by certified mail or given with the due process notice after the meeting(s) is held. The IEP plan serves as the documentation of the IEP planning meeting.
Approval of Placement and IEP Plan	If the student, parent, guardian or surrogate parent agrees with the educational placement and the IEP plan, he/she is to indicate that agreement, in writing, on the due process response form (first page of notice), either at the meeting or, within 10 days of receipt of the due process notice.
Request for Pre-Hearing Conference	The student, parent, guardian or surrogate parent may indicate a desire for a pre-hearing conference to resolve questions or concerns. This would constitute an additional attempt to come to agreement before going to a hearing.
No Response to Due Process Notice and IEP Plan	If the student, parent, guardian or surrogate parent does not respond within 10 days, after the notice was received (by certified mail), or 5 days (if the notice was presented at a conference), approval is assumed. The LEA may now implement the IEP.
Disapproval and Request for a Hearing	If the student, parent, guardian or surrogate parent disagrees with the educational assignment and/or the IEP plan following the pre-hearing conference, he/she may request a hearing to resolve the disagreement.
Disagreement With Hearing Results	If the student, parent, guardian or surrogate parent requests a hearing and disagrees with the results of the hearing, he/she may appeal the decision to the State Secretary of Education. The appeal procedures will be attached to the hearing decision.
Changing an IEP Plan	When either the LEA or the student, parent, guardian or surrogate parent feels that major revisions should be made in a student's IEP plan, a meeting should be requested. Normally, major changes would include revising annual goals, adding or deleting related services, or adding or deleting major programming. (In the last case, due process procedures must be followed.) Minor revisions, such as adjusting short-term objectives, may be made by the teacher and supervisor without a meeting to insure that appropriate educational opportunities are not unduly delayed. The IEP planning meeting(s) is to be held with all of the required participants whether or not the parent, guardian or surrogate parent and, when appropriate, the student attend. The necessary changes are to be made. A copy of the revised IEP is to be sent or given to the parent, guardian or surrogate parent and, when appropriate, the student.

If a change in placement is recommended, the due process notice is to be sent with the revised IEP by certified mail or given to the parent, guardian or surrogate parent and, when appropriate, the student. These individuals may accept the program (and placement, if a recommendation for change of placement was made), or request a pre-hearing conference. Procedures are identical to LEA-initiated IEPs from this point on.

Annual Review of IEP

At least once a year, the IEP must be reviewed. The parent, guardian or surrogate parent and, when appropriate, the student must be invited to participate in planning the student's IEP. If the IEP review follows a reevaluation, or if a new placement is described in the IEP plan, then the LEA must initiate due process procedures.

Parent-Initiated IEPs

Request for Evaluation

A request for an evaluation may come from the student, parent, guardian or surrogate parent. This may occur when the student is believed exceptional and not receiving an appropriate education. The LEA would be wise to secure written permission for the evaluation from the student, parent, guardian or surrogate parent; however, this is not required. A notice of intent to conduct an evaluation is required.

The student, parent, guardian or surrogate parent can also initiate due process procedures by submitting written evidence that the student is exceptional, and not receiving an appropriate program or is not exceptional and is classified as exceptional.

In either case, the LEA must send the Response to Parent-initiated Request for Evaluation or Due Process to the student, parent, guardian or surrogate parent confirming their request for an evaluation or their initiation of due process procedures.

Scheduling the IEP Planning Meeting

A meeting must be scheduled within 10 days from the date that the LEA receives the request.

LEA IEP Planning Meeting Preparation

The LEA shall prepare for this meeting with evidence (which may include an evaluation) of the appropriateness of the student's present placement; or, the LEA may begin to prepare for the development of an IEP, if it is felt the student is exceptional.

Review of Evaluation Data

All evaluation data must be reviewed and interpreted by a certified public school psychologist (except for students identified as speech and language-impaired), the student's present teacher and a supervisor of special education, a school administrator or other person knowledgeable about the program and service options which may be appropriate for the student.

IEP Planning Meeting

At the meeting, every effort must be made to reach an amicable agreement on appropriate program and placement in the best interest of the student.

Student Found Not to be Exceptional

If the review and interpretation of evaluation results in the conclusion that the student is not exceptional, the parent, guardian or surrogate parent and, when appropriate, the student must be notified, in writing (either by mail or at a meeting). This notice should inform the student, parent, guardian or surrogate parent of his/her right to:

1. Review all data collected on the student.

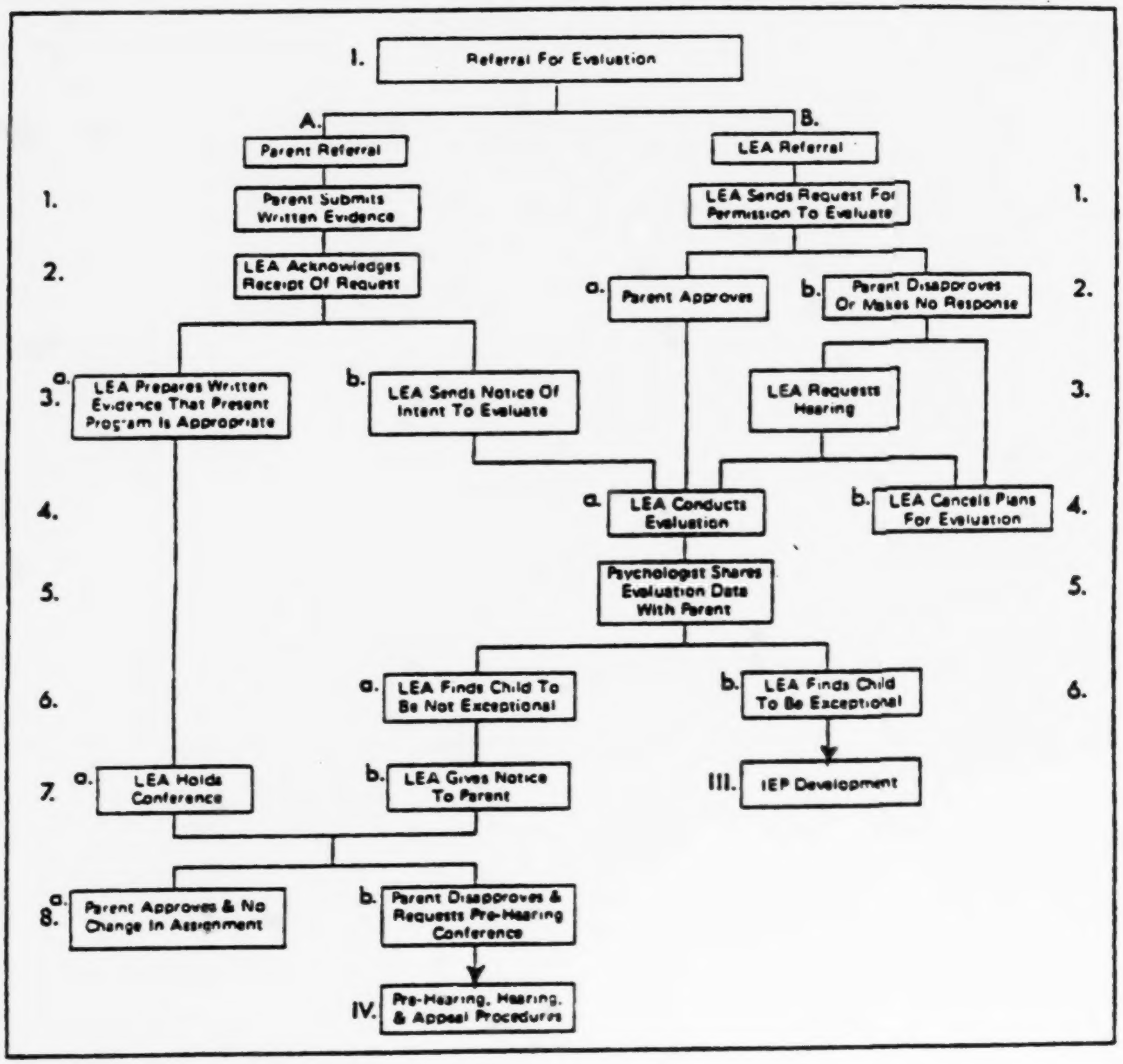
2. Request a pre-hearing conference.

3. Request a hearing.

Student Found to be Exceptional

At the end of the IEP planning meeting, if the student is found to be exceptional, an IEP and the due process notice must be given or sent to the student, parent, guardian or surrogate parent. At this time, these individuals may accept the program and the placement, or request a pre-hearing conference. Procedures are identical to LEA-initiated IEPs from this point on.

I. REFERRAL FOR EVALUATION


I. Referral For Evaluation
A. Parent Referral
B. LEA Referral
1. Parent Submits Written Evidence
2. LEA Acknowledges Receipt Of Request
3. a. LEA Prepares Written Evidence That Present Program Is Appropriate
b. LEA Sends Notice Of Intent To Evaluate
1. LEA Sends Request For Permission To Evaluate
2. a. Parent Approves
b. Parent Disapproves Or Makes No Response
3. LEA Requests Hearing
4. a. LEA Conducts Evaluation
b. LEA Cancels Plans For Evaluation
5. Psychologist Shares Evaluation Data With Parent
6. a. LEA Finds Child To Be Not Exceptional
b. LEA Finds Child To Be Exceptional
III. IEP Development
7. a. LEA Holds Conference
b. LEA Gives Notice To Parent
8. a. Parent Approves & No Change In Assignment
b. Parent Disapproves & Requests Pre-Hearing Conference
IV. Pre-Hearing, Hearing, & Appeal Procedures

Reprinted from BCIU IEP Handbook

A. PARENT REFERRAL FOR EVALUATION

1. Parents send in written evidence that indicates that they believe their child is exceptional and is not receiving an appropriate education.

2. The LEA sends the parents the state-mandated form entitled "Response to Parent-Initiated Request for Evaluation or Due Process" which confirms receipt of the parents' request. A meeting date must be scheduled within 10 days from the date that the LEA received the request, and this meeting should occur as soon as possible.

3. a. The LEA either prepares written evidence that the child's present program is appropriate, no evaluation is necessary, and proceeds to step No. 7. a. or . . .

   b. The LEA agrees to evaluate the child and sends the parents a written notice of intent to conduct an evaluation

4. The LEA conducts the evaluation. The evaluation data must be reviewed and interpreted by the child study team, consisting of a certified school psychologist, the child's present teacher(s), and the supervisor of special education or another person knowledgeable about the program and appropriate service options.

B. LEA REFERRAL FOR EVALUATION

1. The LEA sends parents a written request for permission to evaluate the child

2. a. Parents approve by signing and returning the written permission form and the LEA proceeds to step No. 4. a. or . . .

   b. Parents make no response or disapprove on the permission form, in which case the LEA should contact the parents to arrange a conference to discuss the proposed evaluation.

3. If, following the conference, the parents will not give permission, the LEA either requests a Pre-Evaluation Hearing through the Pa. Department of Education or proceeds to step No. 4.b.

4. a. The hearing decision may be that the LEA conduct the evaluation, in which case a notice of intent to evaluate should be sent to the parents or that . . .

   b. The LEA cancels its plan for an evaluation of the child.

5. Following the review of evaluation results by the child study team, the psychologist may meet with the parents to provide an interpretation of the findings.

6. a. Should the evaluation indicate that the child is not exceptional, the LEA proceeds to step No. 7. b.

   b. Should the evaluation indicate that the child is exceptional, the LEA proceeds to Section III, "IEP Development."

7. a. The LEA holds the scheduled meeting with the parents to present the evidence that the child's present program is appropriate.

   b. The LEA must give a written notice to the parents informing them that their child exceptional

8. a. Should the parents agree with the LEA's decision or finding, no change in the child's assignment is made.

   b. Should the parents not agree with the LEA's decision or findings, the LEA should give them a copy of the pre-hearing conference procedures to read, schedule the pre-hearing conference, and proceed to Section IV, "Pre-hearing, Hearing and Appeal."

Reprinted from BCIII IEP Handbook

REFERRAL TO PLACEMENT PROCESS

Participant Directions

1. Familiarize yourself with the flow chart, "Referral for Evaluation," Handout 3. The flow chart is to be used as a reference document.
2. Use the flow chart in order to pinpoint the next step to be taken in the placement process for each situation. Fill in the appropriate response.

* *

Situation 1

A parent feels that his child should participate in the school district's program for gifted and talented students. The school district to date has not intended to evaluate the student for this program. What should the parent do?

Response: ______________________________

____

Situation 2

A student has been evaluated by the school psychologist. The psychologist has found that the student is functioning in the educable mentally retarded range and needs an educational program to meet his unique needs. What is the next step?

Response: ______________________________

____

Situation 3

A teacher feels that a particular student has a learning disability that is preventing the student from functioning adequately in the regular classroom without some support from the resource room in the school. The student is subsequently referred for evaluation to determine the need for special education services. The school psychologist evaluates the child, and determines that the child is not in need of special education. The parent is informed of this but disagrees with the decision that the child is not exceptional. What is the next step?

Response: ______________________________

____

Situation 4

The reading specialist and classroom teacher are concerned about the poor progress that a particular student is making. Both refer the student to be evaluated by the school district personnel. The LEA presents the parents with a request for permission to evaluate. The parent refuses permission to evaluate. What may be the next step for the LEA?

Response: ____________________

____

ANSWER GUIDE

REFERRAL TO PLACEMENT PROCESS

Situation 1

A parent feels that his child should participate in the school district's program for gifted and talented students. The school district to date has not intended to evaluate the student for this program. What should the parent do?

Response: Parent may submit written evidence that the child warrants evaluation and may request the evaluation.

Situation 2

A student has been evaluated by the school psychologist. The psychologist has found that the student is functioning in the educable mentally retarded range and needs an educational program to meet his unique needs. What is the next step?

Response: Psychologist shares the evaluation data with the parent and IEP development begins.

Situation 3

A teacher feels that a particular student has a learning disability that is preventing the student from functioning adequately in the regular classroom without some support from the resource room in the school. The student is subsequently referred for evaluation to determine the need for special education services. The school psychologist evaluates the child, and determines that the child is not in need of special education. The parent is informed of this but disagrees with the decision that the child is not exceptional. What is the next step?

Response: The parent may request a pre-hearing conference.

Situation 4

The reading specialist and classroom teacher are concerned about the poor progress that a particular student is making. Both refer the student to be evaluated by the school district personnel. The LEA presents the parents with a request for permission to evaluate. The parent refuses permission to evaluate. What may be the next step for the LEA?

Response: The LEA may either cancel the plans for evaluation or it may request a hearing to obtain permission to evaluate.

Roles and Responsibilities
Referral to Placement Process

Trainer Directions for Activity

1. Distribute Worksheet - Activity 2. Explain directions. Tell participants that this is an awareness activity. There are no right or wrong answers. It is designed to make them aware of "who does what" in their particular county or situation.

2. Give participants about 5 minutes to fill in the worksheet.

3. Share responses, comparing and contrasting them.

4. Explain that participants may now use this grid as a planning guide for themselves.

Estimated time: 15 minutes -(10 minutes for individual response
5 minutes for group discussion)

WORKSHEET - ACTIVITY 2

REFERRAL TO PLACEMENT PROCESS — LEA RESPONSIBILITY CHECKLIST

DIRECTIONS Place an "x" in the appropriate column to indicate the individual responsible for each procedure in your school district

PROCEDURES	PERSONNEL								
	PARENT	PSYCHOLOGICAL SERVICES	LOCAL SCHOOL ADMINISTRATOR	GUIDANCE COUNSELOR	REGULAR CLASSROOM TEACHER	SPECIAL EDUCATION TEACHER	SUPERVISOR OF SPECIAL EDUCATION	DISTRICT IEP COORDINATOR	OTHER
• Initiate referral for evaluation.									
• Prepare written evidence that present program is appropriate/ inappropriate.									
• Hold conference to inform parent that present program is appropriate and/or that you intend to evaluate.									
• Send/present to parent notice of intent to evaluate.									
• Parent approves or disapproves.									
• If parent disapproves of, or does not respond to the request for permission to evaluate -- LEA requests hearing.									
• Conduct the evaluation.									
• Meet with parent to review evaluation data.									
• Send/present to parent notice that child is/is not exceptional.									
• Request an outside evaluation.									
• Inform parent that child is exceptional and invite parent to an IEP Planning Meeting.									

A Problem Solving Approach for: The Referral Process in Your County

Trainer Directions for Activity

1. Distribute to participants Worksheet - Activity 3, A Problem Solving Approach for: The Referral Process in Your County.

2. Direct participants to individually respond on Worksheet - Activity 3 - to each stimulus statement. Stimulus statements are also written on individual overhead transparencies. Follow each with a group discussion. Responses may be listed on either overhead or easel.

Stimulus Statements

(Transparency A) 1. Examples of facilitative strategies currently employed to reduce delays in referral.

(Transparency B) 2. Factors that currently cause significant delays in referral.

(Transparency C) 3. Necessary considerations for future planning in order to improve the referral process in your county.

The Referral Process in Your County

Worksheet - Activity 3

Examples of facilitative strategies currently employed to reduce delays in referral in your county.

Factors that currently cause significant delays in referral in your county.

Necessary considerations for future planning in order to plan the referral process in your county.

Transparency A

Examples of facilitative strategies currently employed to reduce delays in referral.

Transparency 8

Factors that currently cause significant delays in referral.

145

144

Transparency C

Necessary considerations for future planning in order to improve the referral process in your county.

Common Problems and Good Practices: Referral Procedure

Trainer Directions for Activity

1. Transparencies 1 and 2 - A summary of common problems and good practices in the referral process to date. This is a synthesis of Activity 3 and a summary of the session.

2. Blank Transparency - To add any common problems and good practices suggested by the group.

(3.) Discussion of material presented.

Estimated time: 10 minutes

Transparency 1

REFERRAL PROCEDURE

Common Problem	*Good Practice*
Procedures are not followed	1. Define procedure and do not deviate. 2. Inservice school personnel and parents. 3. Reduce "emergency" demands by altering philosophy — move from reactive to active.
Procedure not specifically designated	1. Develop placement procedures. 2. Create intake packets. 3. Inservice personnel
Exceptionalities not understood	1. Inservice administrators and teachers. 2. Train parents. 3. Conduct on-going awareness campaign.

Transparency 2

REFERRAL PROCEDURE

Common Problem	Good Practice
Lack of Personnel	1. Hire additional personnel. 2. Evaluate function of all available personnel. d. reassign tasks - i.e. teachers can do screening and addl. diagnostic testing as can counselors - principals can complete initial paperwork. 3. Redefine role of psychologist. a. psychometric function vs. psychological. 4. Reschedule personnel. a. specify testing days. 5. Redefine role of ancillary personnel. a. alternatives before referral made, e.g. baseline data, remedial reading, math.

Referral Process - Individual County Plan (ICP)

Trainer Directions

1. Direct individual county teams to meet in groups to discuss if they choose to include referral process concerns in the ICP.

2. If so: Write specific objectives relative to successfully/creatively solving concerns/issues relative to the referral process in the county.

Estimated time: 10 minutes

PLANNING/BUDGETING: WHERE'S THE BUCKS?

WHERE'S THE BUCKS?: THE BUDGET AND PLANNING PROCESSES

Session Objectives:

1. To assess individual beliefs about special education funding;

2. To identify school board and administrative responsibilities in the budget and planning processes;

3. To review sources of funds and identify criteria for expenditure of funds for special education;

4. To outline budgetary considerations to aid in the planning process;

   and

5. To provide a model for budgetary decision making.

WORKSHOP OUTLINE

Content Outline for Trainer (Estimated Presentation Time: 55 minutes)

I. Introduction and individual assessment about special education funding and budgets

II. Budget responsibilities of school boards and administrators

III. Sources and Criteria for expenditure of funds

- A. Federal, State, Local Allocations
- B. State Aid for Exceptional Children
- C. VI-B Federal Funds under Part B of the Education of the Handicapped as Amended 1984
- D. Pre-School Incentive Grants
- E. LEA Reimbursement Request for the Education of Eligible Exceptional Students Placed by Other State Agencies
- F. Other Sources

IV. Issues to Consider in Budget Preparation

V. A Budgetary Decision Making Process

VI. Summary, Discussion and Review of True/False items

I. Have participants take 10 minutes to complete this activity. Then put aside. Use as Summary and Closing since all items are False.

TRUE OR FALSE

_________ 1. OPTIONS FOR PRIVATE SCHOOL AND OUT-OF-STATE PLACEMENTS SHOULD BE INTEGRATED INTO THE LOCAL BOARD BUDGET.

_________ 2. PARENTS ARE PUSHING FOR, AND COURTS ARE REQUIRING 12 MONTH PROGRAMS FOR SOME SEVERELY HANDICAPPED CHILDREN.

_________ 3. SCHOOLS ARE BEGINNING TO FEEL PRESSURE TO PROVIDE FOR YOUTH WHO IN THE PAST HAVE BEEN INCARCERATED THROUGH SPECIAL EDUCATION MANDATES TO IDENTIFY BEHAVIORAL DISORDERED STUDENTS.

_________ 4. SPECIAL EDUCATION PROGRAMS ARE MANDATORY. THEY MUST BE AVAILABLE, JUST AS FIRST GRADES ARE AVAILABLE TO QUALIFIED PUPILS.

_________ 5. IT COSTS ABOUT TWICE AS MUCH TO EDUCATE THE HANDICAPPED AS IT DOES TO EDUCATE THE NON-HANDICAPPED.

_________ 6. FEDERAL MONIES MAY NOT BE USED TO EDUCATE THE GIFTED UNDER PUBLIC LAW 94-142.

_________ 7. IT COSTS ABOUT TWICE AS MUCH TO EDUCATE HANDICAPPED CHILDREN OUTSIDE OF A SCHOOL DISTRICT AS IT DOES TO EDUCATE THEM WITHIN THE DISTRICT.

_________ 8. SPECIAL EDUCATION FUNDING IS BASED ON THE SECOND MONTH OF SCHOOL CHILD COUNT OF THE PREVIOUS YEAR.

_________ 9. THE SUPERINTENDENT SHOULD IDENTIFY FUNDS SPENT FOR THE HANDICAPPED WITHIN THE GENERAL SCHOOL BUDGET.

_________10. THE NEW FUNDING CODE FOR SPECIAL EDUCATION (ACCOUNT #200) PROVIDES AN IDENTIFIABLE PAPER TRAIL FOR THE PUBLIC TO REVIEW.

_________11. SOME MONIES MAY BE LEGALLY EXPENDED TO TRAIN PARENTS TO WORK WITH THEIR HANDICAPPED CHILD.

_________12. MONIES FROM THE STATE FOR SPECIAL EDUCATION MAY BE USED TO TRAIN GENERAL AND VOCATIONAL EDUCATORS TO WORK WITH EXCEPTIONAL STUDENTS.

_________13. LEA NEEDS ASSESSMENTS ARE MANDATORY BEFORE PREPARING GRANT APPLICATIONS FOR FEDERAL AND STATE FUNDING.

I. Continued. Introductory comments might include:

"THE ONLY WAY TO TREAT STUDENTS EQUALLY IS TO DISPERSE FUNDS UNEQUALLY TO MEET THE STUDENTS UNEQUAL NEEDS."

THE OLD SAYING, "MONEY AND THINGS DO NOT GUARANTEE A QUALITY PROGRAM," IS TRUE. HOWEVER, IT IS ALSO TRUE THAT TRYING TO OPERATE A PROGRAM WITHOUT THESE RESOURCES IS DIFFICULT, IF NOT IMPOSSIBLE.

II. Delineate Budget and Planning Responsibilities
SCHOOL BOARDS AND ADMINISTRATIONS ARE RESPONSIBLE FOR:

1. KNOWING SOURCES OF FUNDING AND THE MEANS BY WHICH FUNDING MAY BE OBTAINED.

2. UTILIZING FUNDING FORMULAS TO PROJECT INCOME.

3. PREPARING, CONTROLLING AND MONITORING THE BUDGET.

4. MATCHING AVAILABLE FACILITIES TO STUDENT NEEDS.

5. EQUIPPING AND SUPPLYING THE PROGRAM.

III. Sources and Criteria for Expenditure of Funds

A. GOVERNMENT - FEDERAL, STATE AND LOCAL PROVIDE THE PRIMARY BUDGET ALLOCATIONS

1980 - 12 - 14% OF EDUCATION FOR SPECIAL EDUCATION COMES FROM THE FEDERAL GOVERNMENT

STATE - 30 - 45%

STATE FUNDS ARE CATEGORICAL FUNDS - DESIGNED FOR SPECIAL EDUCATION PROGRAMS AND MAY NOT BE USED FOR ANY OTHER PURPOSE

SPECIAL EDUCATION IS ONE OF THE LEA'S MOST EXPENSIVE PROGRAMS

PEOPLE/ TIME/ MONEY = RESOURCES

FUNDING SOURCES

ONE DOCUMENT FOR FOUR (4) DIFFERENT GRANT AWARDS. THIS DOCUMENT IS PREPARED BY THE SPECIAL EDUCATION DEPARTMENT BASED ON ASSESSED NEEDS. THE SUPERINTENDENT AND THE BOARD OF EDUCATION REVIEW AND APPROVE THESE GRANT PROPOSALS. THE FOLLOWING CHART DISPLAYS THE CRITERIA TO BE ADDRESSED FOR EACH PART OF THE GRANT DOCUMENT.

B. STATE AID FOR EXCEPTIONAL CHILDREN

USES:

INITIATION, MAINTENANCE AND/OR IMPROVEMENT OF SPECIAL EDUCATION INCLUDING:

1. EMPLOYMENT OF NEW PROFESSIONAL EDUCATION PERSONNEL SOLELY SERVING EXCEPTIONAL CHILDREN (MUST BE OBLIGATED PRIOR TO THE END OF THE SECOND SCHOOL MONTH FOR INCLUSION IN SCHOOL AID FORMULA)
2. TRAINING OF EDUCATIONAL PERSONNEL TO WORK WITH EXCEPTIONAL CHILDREN
3. MATERIALS, TRANSPORTATION, CONTRACTED SERVICES, MINOR RENOVATION AND OTHER COSTS DIRECTLY RELATED TO THE SPECIAL EDUCATION DELIVERY PROCESS PRESCRIBED BY THE STATE BOARD OF EDUCATION
4. ALL EXCEPTIONALITIES INCLUDING GIFTED

C. VI-B FEDERAL FUNDS UNDER PART B OF THE EDUCATION OF THE HANDICAPPED, AS AMENDED 1984

USES:

1. ACCORDING TO RULES AND REGULATIONS GOVERNING PUBLIC LAW 94-142
2. TO ADDRESS ACTION TAKEN TO RESOLVE ALL CURRENT COMPLAINTS FORWARDED TO THE COUNTY BY THE DEPARTMENT OF EDUCATION
3. AT LEAST 10% TO IMPROVE SPECIAL EDUCATION PROGRAM FOR HANDICAPPED ADOLESCENTS
    a. CURRICULUM DEVELOPMENT
    b. INCREASING VOCATIONAL EDUCATION OPPORTUNITIES
    c. CAREER AWARENESS AND PREPARATION, ETC.
4. LIMITED TO EXCEPTIONAL STUDENTS AS NAMED IN PUBLIC LAW 94-142 (NOT GIFTED)
5. PERSONNEL - SEED PROGRAMS, RELATED SERVICES, CONTRACTED SERVICES

D. PRE-SCHOOL INCENTIVE GRANTS ($90.17 PER CHILD)

USES:

1. FOR HANDICAPPED CHILDREN AGES BIRTH THROUGH FOUR OR IDENTIFIED HANDICAPPED CHILDREN, AGE FIVE, WHO DO NOT QUALIFY FOR SCHOOL ENTRANCE ON THE FIRST OF SEPTEMBER.

2. APPROPRIATE ACTIVITIES:

    a. PROVIDING ESSENTIAL ASSESSMENT AND DIAGNOSIS

    b. INSTRUCTIONAL PROGRAM AS DEFINED IN THE REGULATIONS FOR THE EDUCATION OF HANDICAPPED STUDENTS

    c. INSTRUCTIONAL MATERIALS, EQUIPMENT AND SUPPLIES

    d. SUPPORT FOR LOCAL EDUCATION AGENCY PARTICIPATION IN INTERAGENCY ACTIVITIES FOR SERVICE DELIVERY

    e. PARENT AWARENESS OF SPECIAL NEEDS OF THEIR HANDICAPPED CHILD

    f. PARENT COUNSELING AND PARENT TRAINING

    g. TRANSPORTATION

    h. RELATED SERVICES SUCH AS SPEECH-LANGUAGE TRAINING, OCCUPATIONAL THERAPY, PHYSICAL THERAPY

3. MAY NOT SUPPLANT ANY STATE OR LOCAL DOLLARS CURRENTLY USED FOR THESE PURPOSES

4. MUST SUBSTANTIATE THAT COUNTY SCHOOL DISTRICT IS TAKING ACTION TO RESOLVE ALL CURRENT COMPLAINTS FORWARDED TO THE COUNTY BY THE OFFICE OF SPECIAL EDUCATION ADMINISTRATION

E. LEA REIMBURSEMENT REQUEST FOR THE EDUCATION OF ELIGIBLE EXCEPTIONAL STUDENTS PLACED BY OTHER STATE AGENCIES

F. OTHER WAYS TO FIND THE BUCKS:

1. STEP 7

2. VOCATIONAL FUNDS (VOCATIONAL EDUCATION IS SPECIAL EDUCATION)

3. COMMUNITY BACKING - OTHER AGENCIES

4. FOUNDATIONS

5. PRIVATE/PUBLIC GRANTS

IV. Issues to Consider in Budget Preparation

POPULATIONS TRACKING 0-23

POPULATION SHIFTS

DE-INSTITUTIONALIZATION

PARENT TRAINING

ADVOCATE INPUT

STUDENT TRAINING TOWARD AWARENESS AND ACCEPTANCE

STAFF DEVELOPMENT - ALL STAFF - PROFESSIONAL/SERVICE

BOARD MEMBER TRAINING

DECISION MAKING PROCESS

CURRICULUM DEVELOPMENT - LEARNING OUTCOMES - PRE VOCATIONAL - VOCATIONAL

SEARCH AND SERVE ACTIVITIES

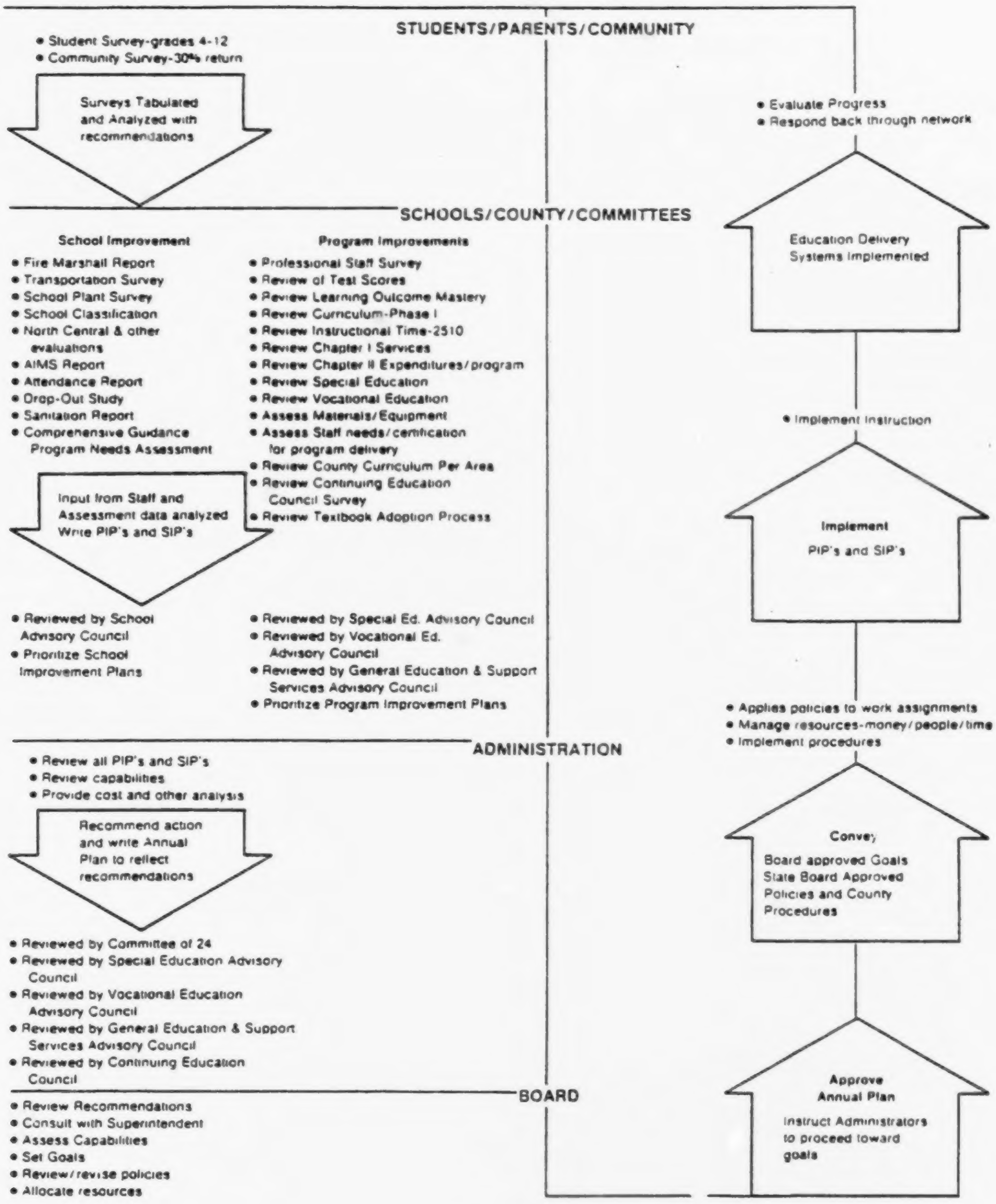
HEALTH RELATED ISSUES - CATHETERIZATION - SUCTIONS - SEAT BELTS

CONTRACTED SERVICES - PT/OT/ADP.PHYS.ED.

NOTIFICATION - PUBLIC AWARENESS

V. A Budgetary Decision Making Process

MONONGALIA COUNTY SCHOOLS
DECISION MAKING NETWORK
PROCESS CHART



STUDENTS/PARENTS/COMMUNITY

- Student Survey-grades 4-12
- Community Survey-30% return

Surveys Tabulated and Analyzed with recommendations

SCHOOLS/COUNTY/COMMITTEES

School Improvement

- Fire Marshall Report
- Transportation Survey
- School Plant Survey
- School Classification
- North Central & other evaluations
- AIMS Report
- Attendance Report
- Drop-Out Study
- Sanitation Report
- Comprehensive Guidance Program Needs Assessment

Program Improvements

- Professional Staff Survey
- Review of Test Scores
- Review Learning Outcome Mastery
- Review Curriculum-Phase I
- Review Instructional Time-2510
- Review Chapter I Services
- Review Chapter II Expenditures/program
- Review Special Education
- Review Vocational Education
- Assess Materials/Equipment
- Assess Staff needs/certification for program delivery
- Review County Curriculum Per Area
- Review Continuing Education Council Survey
- Review Textbook Adoption Process

Input from Staff and Assessment data analyzed Write PIP's and SIP's

- Reviewed by School Advisory Council
- Prioritize School Improvement Plans

- Reviewed by Special Ed. Advisory Council
- Reviewed by Vocational Ed. Advisory Council
- Reviewed by General Education & Support Services Advisory Council
- Prioritize Program Improvement Plans

ADMINISTRATION

- Review all PIP's and SIP's
- Review capabilities
- Provide cost and other analysis

Recommend action and write Annual Plan to reflect recommendations

- Reviewed by Committee of 24
- Reviewed by Special Education Advisory Council
- Reviewed by Vocational Education Advisory Council
- Reviewed by General Education & Support Services Advisory Council
- Reviewed by Continuing Education Council

BOARD

- Review Recommendations
- Consult with Superintendent
- Assess Capabilities
- Set Goals
- Review/revise policies
- Allocate resources

- Evaluate Progress
- Respond back through network

Education Delivery Systems Implemented

- Implement Instruction

Implement
PIP's and SIP's

- Applies policies to work assignments
- Manage resources-money/people/time
- Implement procedures

Convey
Board approved Goals State Board Approved Policies and County Procedures

Approve Annual Plan
Instruct Administrators to proceed toward goals

FACILITIES/TRANSPORTATION/EQUIPMENT: BUILDINGS, BUSES, & BARRIERS

BUILDINGS, BUSES, & BARRIERS

Session Objectives

1. Expand awareness and relate importance of legal and moral requirements to provide program accessibility to all disabled persons.
2. Promote advocacy of programmatic accessibility by administrators.
3. Relate the negative impact of programmatic segregation.
4. Identify the intent of P.L. 93-112 and P.L. 94-142 as related to programmatic barrier-freeness.
5. Identify and interpret the National Architecture and Transportation Barriers Compliance Board regulations.
6. Introduce and provide training in the use of an evaluation guide for compliance with State and Federal regulations.
7. Seek solutions to physical and attitudinal barriers in facilities and transportation.
8. Identify existing space problems.
9. Cooperatively seek solutions to existing space problems.

SESSION OUTLINE

Outline for Trainer (Presentation Time 55 min.)

I. INTRODUCTION AND OVERVIEW

II. DECISION MAKING

- A. Present the setting for decision making.
- B. Distribute "DECISION PYRAMID" worksheet.
- C. Project and read transparency showing nine chronological events. Participants make a decision to support either stadium or building renovations after events 2, 4, 6, & 9.
- D. Summary and discussion.

III. EVALUATION OF PROGRAMMATIC ACCESSIBILITY

- A. Present relative information on PL 93-112 & PL 94-142. Discuss their intent and compliance procedures.
- B. Distribute evaluation instrument, BARRIER-FREENESS IN EDUCATIONAL FACILITIES.
- C. Explain evaluation process for instrument.
- D. Project slides of facilities showing examples of items both in compliance and out of compliance with regulations.
- E. Answer questions related to regulations and evaluation.

IV. CREATIVE SOLUTIONS AND ALTERNATIVES TO SPACE PROBLEMS.

- A. Acknowledge the major barrier to compliance, "Lack of Space."
- B. Discuss and answer questions related to space problems.
- C. Project overhead transparencies related to space options.
- D. Summary.

164

I. INTRODUCTION AND OVERVIEW

A. The transportation and facilities areas present both specific and extensive conditions relative to administering Special Education programs.

Changes and improvements for compliance involve capital expenditures, many of which require long term planning and are extremely costly in money, time and energy.

Regardless of the expense, administrators must develop and expand knowledge, awareness and advocacy of disabled consumers.

B. This session relates to attitudes, current status and planning for improvements in the areas of programmatic accessibility for the disabled.

Attitudes will be examined through an exercise in decision making.

Current status can be determined by evaluating the physical facilities and the transportation program.

Improvement planning techniques will be improved through a study of solutions and alternatives to one major barrier, the lack of available space.

C. General questions regarding session.

(estimated time: 5 minutes)

II. DECISION MAKING

A. Purpose: To review current attitudes and develop advocacy toward the disabled consumers of the district's services and to provide a better understanding and interpretation of the laws related to the disabled.

B. Activities:

1. Provide the setting for decision making. A district with a modest amount of unallocated money must decide whether to spend it on programmatic accessibility or another, more popular area, athletics.

2. Present, visually and audibly, nine chronological events which may affect administrative support. Pause for written response after events 2, 4, 6, and 9.

3. Require participants to make decisions at each step, based on their understanding of the laws, their attitudes toward the disabled and the information given by the leader. Decisions are to be recorded on handout provided.

C. Summary:

Participants are asked to reveal how often and why they moved their support from one area to the other. Community pressures, fear of lawsuits and advocacy are common responses.

Open discussion and questions are encouraged. A sharing of similar experiences among counties (districts) helps promote positive attitudinal changes.

Sample questions:

1. What gave you the most trouble in making decisions for support?
2. Did the workshop setting affect your decisions?
3. Was the setting realistic?
4. Did you know enough about the regulations and possible barriers?

See Attached Handout and List of Events.

(estimated time: 15 minutes)

DECISION PYRAMID

Situation: The $100,000 in interest, earned from a recent bond sale, must be spent, either to make much needed improvements in the seating in the County's athletic complex, or to retrofit the County's only high school facilities to bring them into compliance with P.L. 93-112 and P.L. 94-142. As a board member, or an administrator, you must decide which proposal you support.

	STADIUM RENOVATION	BUILDING RENOVATION
1.		
2.		
3.		
4.		

1. The high school facility is not in compliance with Barrier Freeness regulations. Although there is only one physically disabled student in attendance, appropriate retrofitting is estimated at $100,000. However, failure to comply could result in the withholding of twice that much annually.

2. The athletic department has submitted a request for modernization and expansion of the high school stadium. The expected cost will be $95,000.

3. In a letter to the board, the disabled student's parents have demanded immediate remodeling to allow for full accessibility to all programs for their daughter. However, the student has missed school about one-fourth of the time, and is expected to drop-out soon.

4. Recent home games have been sell outs and large numbers of people have had to stand. Improvements would strengthen community relations.

5. Two surveys by the athletic department show that 98% of the PE students and 92% of the fans at the last game favor stadium improvements. Yesterday the booster club pledged matching funds if the expansion, plus a new track, is approved.

6. At the last Board meeting, five disabled parent representatives with various disabilities described barriers preventing their attendance at regular school functions. Over 12% of parents and grandparents of high school students have physical or mental disabilities.

7. There is no accessible facility in the school system for recreation or adult basic education programs.

8. A headline story in yesterday's newspaper brought out both sides of the issue and predicted a forthcoming decision in favor of the stadium improvements.

9. "CLASS ACTION FILED AGAINST SCHOOL DISTRICT"

III. EVALUATION OF PROGRAMMATIC ACCESSIBILITY

A. Purpose:

To familiarize participants with programmatic barriers and their effects upon consumers and to relate the intent of State and Federal regulations regarding barriers.

To provide administrative interpretation of the regulations and to introduce an evaluation instrument related to barrier-freeness and instruct participants in its use.

To seek solutions to the physical and attitudinal barriers which exist in facilities and transportation systems.

B. Activities:

1. Distribute BARRIER-FREENESS IN EDUCATIONAL FACILITIES. Explain its purpose, method of development, method of use and content.

2. Present slides which illustrate several examples of both compliance and lack of compliance for each section of the evaluation guide.

3. Open discussion for questions, answers and a sharing of methods among counties (districts).

C. Summary:

In the areas of facilities and transportation, improvements generally require expensive changes. Prior to any change, especially expensive ones, a thorough evaluation of present conditions should occur.

After evaluation is completed, by a consultant or other experienced evaluator, the district establishes correction procedures. This should be in conjunction with the consultant to utilize Creative Alternatives thus avoiding expensive retrofitting or remodeling when unnecessary.

See Attached Evaluation Guide. (Duplicate Slides And Transcript May Be Obtained From Consultant.)

(estimated time: 25 minutes)

BARRIER-FREENESS IN EDUCATIONAL FACILITIES

An Evaluation Guide for Compliance with State and Federal Regulations

The Federal Government, in Section 504 of the 1973 Rehabilitation Act, established the requirements that no public buildings, including public school buildings, shall prevent full utilization of any program, which is the recipient of federal financial assistance, by any handicapped person.

To ensure compliance and continued funding, certain school facilities must be evaluated to determine the level of programmatic barrier-freeness. It is the purpose of this instrument to provide a quick, easy to follow guide for such an evaluation. This guide contains the required standards (in 77 weighted items), a method of comparison with other facilities, plus a system for determining corrective procedures and priorities.

There are six categories of evaluative criteria: I. Site; II. Entrances and Traffic Areas; III. Elevators; IV. Restrooms, Showers and Fountains; V. Communications and Signals; and VI. Special Areas.

The total points received can be translated to a percentage figure which can then be given a quality rating.

INSTRUCTIONS

The 750 point deductive scale should be utilized in the following manner:

1. Full credit should be given when the fact and the intent of the standard has been fully met.
2. Full credit should be given when the standard has not been met, but is not needed to provide programmatic barrier-freeness (e.g. Elevator requirements for single-story structures).
3. No credit is to be given for items that are needed but do not exist.

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PROCEDURES

The recommended procedure for the use of this guide would utilize the expertise of several individuals. First, a consultant, or a consulting team, should evaluate the facility in relation to governmental requirements, accepted standards and educational programs offered. A numerical and quality rating is established and a percentage of compliance can be established for federal reporting purposes.

The instrument can then be transferred to the District Maintenance Director to establish corrective procedures and estimated costs for each low scoring item. Finally, the Business Manager, Superintendent or Assistant Superintendent should establish a priority level to be translated into work orders for the maintenance department or a call for bids for larger projects. The priority decisions will be based on the ratio between correction costs and increased level of compliance, e.g., if the cost of installing a properly designed elevator estimated to be $75,000 would raise, by 10%, the level of compliance with Section 504 and thus increase federal funding by $100,000 annually, this item might receive a number "1" priority.

SUMMARY GRAPH

Barrier-Freeness in Educational Facilities

		I Site	II Entrances Traffic Areas	III Elevators	IV Restrooms, Showers, Fountains	V Communications, Signals	VI Special Areas	Average
Excellent	100							
	90							
	80							
Satisfactory	70							
	60							
Borderline	50							
	40							
Poor	30							
	20							
Unacceptable	10							
	0							

PRIORITY LEVEL

1-Top Priority - Immediatly
2-Important - This Year
3-Soon - Next Fiscal Year
4-Low Priority

EVALUATION GUIDE OR BARRIER-FREENESS OF SCHOOL FACILITIES

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
I. SCHOOL SITE						
1. At least one (or 2%) of the parking spaces are for disabled drivers and are the closest available space to an accessible entrance.		15				
2. Parking spaces for the handicapped are appropriately marked with international signs.		10				
3. Handicapped parking spaces are at least 12'-0" (144") wide and are at walkway level or each have appropriate curb cuts.		15				
4. Has at least one path of travel with no steps or a slope greater than 1:12 from parking area to one major entrance to building.		5				
5. Pedestrian areas are free of grating with holes larger than 1/2" x 1/2".		10				
6. Sidewalks are of continuing common surface with no holes, humps, or broken edges.		10				

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
7. Level rest platform at 30'-0" intervals and turns.		10				
8. Ramps are provided at necessary positions to get over curbs. The curb cuts minimum width is 4'-0" (48") and no steeper than 1:12 (1:8 in special cases) with non-slip surface.		10				
9. Pedestrian crosswalks are marked so that drivers shall be warned of the crossing.		5				
10. No rigid or hard objects project into the space above a walk lower than 7'-6" (90")		5				
11. Guy wires for poles or pylons are located outside of pedestrian circulation areas.		5				
	TOTAL - SCHOOL SITE	100		TOTAL COST SCHOOL SITE		#1_____ #2_____ #3_____ #4
			%			

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
II. ENTRANCES AND TRAFFIC AREAS						
A. Entrances						
1. At least one major entrance to buildings is accessible to individuals in wheelchairs or on crutches.		15				
2. Floors on the inside and outside of the entrances are level.		10				
3. Floor is clear for a distance of 5'-0" (60") from the door and extends a minimum of 18" beyond the pull side of the entrance.		10				
4. All entrances have a 2'-8" (32") clear opening.		20				
5. Vestibules allow enough space for a wheelchair to get through 6'-6" (78") between doors.		10				
6. Door mats are firmly secured and the thickness is not more than 1/2" above the floor finish.		5				
7. Maximum height of thresholds of doors is not more than 1/2".		5				
8. Glass on doors is of a safety type.		5				

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
9. Doors are operable without movements requiring a tight grasp, complex hand movement or exertion of a great force.		5				
10. Hardware provided for doors leading to hazardous areas are provided with a change in texture either by knurling or by abrasive materials		10				
	Subtotal - Entrances	95				
B. Traffic Areas						
1. An accessible and convenient path of travel from accessible entrances to all program areas within the building.		20				
2. Minimum clear width of hall corridors, passageways and aisles are 5'-0" (60").		10				
3. No rigid or hard objects project into the space above a path of travel below a height of 7'-6" (90").		5				
4. Floors on each story have no abrupt elevation changes		10				

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
5. All interior ramps have slopes of no more than 1:12.		10				
6. Ramps are of permanent, fixed construction with non-slip surfaces.		15				
7. Ramps with a rise greater than 9" have handrails on both sides.		5				
8. Ramps have a minimum clear width of 3'-0" (36").		5				
9. Stair risers are no less than 4" high nor more than 7" high with a minimum tread width of 11".		5				
10. Stair treads have no abrupt or squared nosing configurations.		5				
11. Stair treads have surfaces which are of a non-slip type.		10				
12. Stairways have continuous, easily gripped handrails with a diameter of 1-1/4" to 1-1/2".		10				
13. Handrail height is 2'-6" (30") to 2'-10" (34") above tread and extends at least 1'-6" (18") beyond last step.		10				

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
14. Handrails end smoothly at walls, floors or posts resulting in no dangerous protrusions.		5				
15. Tactile warning cues are located at the top of stairways.		5				
16. Any stairways open on the side have a side skirt not less than 2" in height.		10				
	Subtotal-Traffic Areas	140				
	Subtotal-Entrances	95				
	TOTAL - ENTRANCES AND TRAFFIC AREAS	235		TOTAL COST ENTRANCES AND TRAFFICS AREAS		#1_____ #2_____ #3_____ #4_____
			%			

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
III. Elevators						
1. Elevators exist where necessary to make all programs accessible.		25				
2. Elevator lobbies are located and adjacent to direct and accessible paths of travel.		10				
3. Elevator call buttons are located 3'-6" (42") from floor surface. Floor identification located beside call button in raised characters.		10				
4. Elevator controls have characters raised at least 1/32" from the surface, have sharply defined edges and are at least 1/2" high.		5				
5. Tactile signs located on door edges at each floor to identify level from inside the elevator.		10				
6. Elevator operation is automatic.		10				
7. Elevator floor is slip resistant and level with the floor at stopped position.		10				

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
8. The floor plans for elevator cars allow people in wheelchairs to enter and leave the car 5'-0" x 5'-0" (60" x 60").		10				
9. Handrails are located on at least 2 side walls of the elevator car.		10				
	TOTAL - ELEVATORS	100		TOTAL COST ELEVATORS		#1_____ #2_____ #3_____ #4_____

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
IV. Restrooms, Showers, and Fountains						
A. Restrooms						
1. Entrances are at least 2'-8" (32") wide, design does not inhibit wheelchairs 3'-4" (40" from door to baffle).		15				
2. Each restroom has one water closet with inside stall dimensions at least 5'-0" (60") x 5'-0" (60") and a door that opens outward.		20				
3. The symbol on restroom door shall be raised 1/32" from the surface and each character is at least 2 1/2" high and mounted 4'-6" (54") to 5'-0" (60") from floor surface.						
4. Stalls have 1 1/2" OD grab bars on each side wall, 3'-0" (36") minimum length parallel to and 2'-8" (32") above floor with 1 1/2" clearance from wall that will withstand a 250 pound load.		10				
5. The restroom floor is slip resistant when wet.		10				
6. Clearance under at least one lavatory is not less than 2'-6" (30") above the floor with no exposed hot water or drain pipes.		10				

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
7. Faucets are of a design that does not require grasping or twisting of the wrist as the means of operation.		10				
8. At least one wall-mounted urinal with an enlongated lip and mounted 1'-3" (15") to 1'-5" (17") from floor surface.		5				
9. Mirrors, dispensers, and receptacles are mounted in a way in which they can be used by people in wheelchairs.		5				
	SUBTOTAL- RESTROOMS	95				
B. Showers						
1. Hand controls are operable without the need for precise grasping and twisting or pinching.		10				
2. A minimum of one shower for each sex is accessible.		10				
3. The inside dimensions of the showers shall be 3'-0" x 3'-0" (36" x 36").		5				
4. Seat and grab bars in the showers.		5				

10

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
5. Shower stalls have a floor surface which is slip-resistant under wet conditions.		5				
6. Water controls are of a single lever design.		5				
7. Soap tray and water controls are not more than 40" above the floor.		5				
	SUBTOTAL-SHOWERS	45				
C. Fountains						
1. The height of fountains and water coolers is between 2'-6' (30") and 3'-0" (36"). Elementary not over 30" from floor.		15				
2. Fountains located in alcoves have clear width of 2'-0" (24").		5				
3. Some fountains and coolers have at least 2'-6" (30") clearance underneath.		15				
	SUBTOTAL-FOUNTAINS	35				#1_____
	Subtotal-Restrooms	95				#2_____
	Subtotal-Showers	45				
	TOTAL-RESTROOMS, SHOWERS, FOUNTAINS	175		TOTAL COST-RESTROOM$ SHOWERS, FOUNTAIN$		#3_____ #4_____

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
V. Communications and Signals						
1. At least one public telephone available with push button controls and adjustable volume control.		10				
2. Highest operable part of telephone is no more than 54" above floor level.		5				
3. Identification signs, directional signs, and informational signs are provided throughout the structure in tactile form for the blind.		20				
4. Exits are marked with visual and audible signals.		10				
5. Both visual and audible emergency warning systems are provided.		15				
	Total-Communications and Signals	60		TOTAL COST - COMMUNICATION & SIGNALS		
			%			#1_____ #2_____ #3_____ #4_____

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
VI. Special Areas						
1. Two percent, or a minimum of two lockers in every locker room accessible to people in wheelchairs.		10				
2. Laboratories and other work or study areas have a handicapped station with a 30" clear space below the work top.		15				
3. Aisles between fixed stacks in libraries are at least 3'-6" (42") wide.		10				
4. Special areas such as resource rooms, libraries, gymnasiums and other areas with special equipment are accessible.		15				
5. Provisions are made for the handicapped in the places of assembly such as the gymnasium and auditorium.		5				
6. Provisions are made for the handicapped in the food-service areas such as 2'-6" (30") clearance under tabletops and 3'-0" (36") maximum height for service counters.		10				

RECOMMENDED STANDARD	OBSERVED CONDITION	POSSIBLE POINTS	POINTS EARNED	CORRECTION PROCEDURES	ESTIMATED COSTS	PRIORITY LEVEL
7. Controls for light, heat, ventilation, windows and draperies no higher than 4'-6" (54") above floor.		15				
	Total - Special Areas	80		TOTAL COST SPECIAL AREAS		
			%			#1_____ #2_____ #3_____ #4_____
	TOTAL POINT EARNED	750				

SECTION III: THE INDIVIDUAL COUNTY PLAN: INDIVIDUAL WORKSHOP DESIGN AND TRAINING MANUAL/MATERIALS

by

Marta A. Roth

207

THE INDIVIDUAL COUNTY PLAN

As a result of the wide variations in expressed needs across county school districts in West Virginia, the design of the administrative inservice included two sessions which were used for team members to identify, discuss, and prioritize unique needs and to develop an individual county plan to address those needs. Each of the two sessions were attended by the five (5) member county team and a staff county consultant. The consultants responsibilities included facilitating communication among team members and acting as a resource to provide technical assistance in resolving individual county problems. Additionally, the staff county consultant had responsibilities in providing follow-up and on-site visitation to assist in identifying accomplishments and/or barriers to resolving county objectives. A detailed list of county consultant responsibilities are provided in Figure 1.

ICP Session A

The first (A) ICP session's major purpose was to review and discuss each county's needs assessment data. This usually took one (1) hour. Consultants were provided with specific county data profiles in addition to the overall findings on three (3) of the needs assessment instruments. In addition, each county participant received a folder containing general, county particular and individual position findings of the needs assessment.

The review of data followed in sequential order, beginning with overall findings and then proceeding to the mere county specific results.

Figure 1

COUNTY CONSULTANT

GENERAL RESPONSIBILITIES

1. To participate in pre-workshop consultant training which includes becoming familiar with individual county data.
2. To attend training workshops.
3. To act as the contact person with the Dean's Grant Project and the individual counties assigned.
4. To lead the ICP session dealing with individual county data and to provide assistance in the analyses and interpretation of the results of the county's needs assessment data.
5. To chair the ICP session in the development of the individual county plan.
6. To assist in problem solving activities required of county team members during the general training sessions, during individual team meetings, during follow-up activities and during on-site consultation visits.
7. To act as a facilitator/mediator for the county team in general, individual, follow-up, and on-site sessions.
8. To provide resources to the individual county in the writing, implementing, and following-up of the I.C.P.
9. To assist in the evaluation of the general workshop training sessions and the individual sessions.
10. To assist in review and evaluation processes of grant activities through membership and attendance at Extended Project Steering Committee meetings.
11. To conduct follow-up,written and phone, activities as requested.
12. To conduct at least 1 on-site visit to each county assigned and collect descriptive data as prescribed.
13. To summarize follow-up and on-site data as prescribed and submit report to Project Steering Committee.

Using overheads, the consultants began with the Attitude Questionnaire summary (Figure 2). Total sample data regarding attitudes toward exceptional students was generally favorable. The five (5) items selected for discussion were determined to be the most controversal. Generally, consultants began the review of data on a positive note emphasizing that most needs assessment participants showed very positive attitudes toward working with the handicapped, however, some role groups were more positive than others. This introduction was intended to begin a non-threatening discussion and sharing of perceptions of need for more positive attitudes within the district. Consultants were given a checksheet (Figure 3) to jot down notes on strengths and weaknesses as the discussion proceeded.

Next, the summary of knowledge questionnaire results were presented to the team (Figure 4). In addition to the percent correct by position, each district's average was calculated and used for purposes of comparison with the other results. Each team member's score was reported on the data summary sheet within their particular folder. During the discussion by team members of strengths/weaknesses in knowledge of the law within their district, consultants again took notes for future reference regarding county needs on the "Consultant Reminder Checksheet."

The final data profile reviewed county specific results on the "Barrier Ratings Instrument." Team members' folders contained the 18 items (Figure 5) and were reminded that they responded by rating the "magnitude of the problem" within their district and also designated the "responsible party" for resolving the issue. A graph in overhead form was developed with each positions' responses to "magnitude of problem" (Figure 6). Consultants

Figure 2

RESULTS

ATTITUDE QUESTIONNAIRE

ALL PARTICIPANTS' AVERAGE BY POSITION

ITEM	B	S	PE	PS
Regular classroom teachers will not be unfairly burdened by the need for additional training to teach handicapped students.	2.5	2.7	2.6	2.7
Children who are not toilet trained should be admitted to public schools.	2.4	2.8	2.8	2.2
Children with severe and profound handicaps should attend public schools.	2.5	2.9	3.0	2.5
Education of the handicapped should not by paid only through federal funds.	2.6	3.0	2.7	2.7
If I were a parent of a child who had a learning problem, I would want him to be in a regular classroom for most of the school day.	2.8	2.7	2.8	2.8

1=STRONGLY DISAGREE

2=DISAGREE

3=AGREE

4=STRONGLY AGREE

B=Board Members
S=Superintendents
PE=Elementary Principals
PS=Secondary Principals

Figure 3

County______________ Consultant Reminder Checksheet Consultant______________

Directions - The following checksheet is to be used to verify discussion by county team members for generic workshop areas (A) and needs assessment categories (B) and other topics brought up by the team for possible inclusion in the ICP. Content areas (A) should be brought up in the 10 minute sessions following each presentation. Notes as to the discussion could be sited under strengths and weaknesses. Data strengths and weaknesses may be identified in ICP Session A based on prior individual county data analyses, knowledge and Barrior items (numbers) could be listed under strengths and weaknesses. These areas could then be prioritized in the third column for your discussion in the ICP process. You may want to question the need for attitudinal educational outcomes in your county and indicate that discussion under strengths and weaknesses.

A. Workshop Content	Strengths	Weaknesses	Priorit
1. Budget/Planning			
2. Referral			
3. Legal			
4. Facilities			
B. Data			
1. Knowledge			
2. Barriers			
3. Attitude			
C. Other			

Figure 4

RESULTS

DEAN'S GRANT NEEDS ASSESSMENT
KNOWLEDGE QUESTIONNAIRE

All Participants' % Correct = 66%

All Board Members' % Correct = 60%

All Superintendents' % Correct = 73%

All Elementary Principals' % Correct = 68%

All Secondary Principals' % Correct = 63%

Figure 5

BARRIER RATINGS ITEMS

1. There is a lack of general public awareness of the effectiveness of special education.

2. Special education placements are made solely on the basis of the availability of programs rather than on the needs of individual students.

3. Educational planning for handicapped students is short ranged and consideration is often not given to post-secondary or career goals.

4. Excessive teacher caseloads or class sizes interfere with the provision of appropriate instruction.

5. Lack of remedial programs and alternatives in regular education cause some students to be inappropriately placed in special education.

6. Parents of handicapped students do not have adequate input into the education process, i.e., parents are not adequately informed, are not active participants, are not perceived or accepted as equal partners in the educational process, and/or are often intimidated by school personnel.

7. There is insufficient space in school buildings for the initiation of new special education programs.

8. The physical environment of existing special education classrooms (i.e. size, location, furnishings) is frequently not suitable to meet the needs of handicapped students.

9. Educators are not adequately prepared for dealing with parents and families of handicapped students.

10. Special buses equipped to handle handicapped students are often not available.

11. There is lack of interagency cooperation in the provision of special education and related services (i.e. DVR, Health and Human Services, etc.)

12. Placement in segregated special schools or centers, "stigmatize" handicapped students and limits their participation in many regular education programs.

13. The relationship between the regular and special educators in the development and implementation of individualized educational programs is inadequate because of time constraints, poor coordination and/or lack of supervision.

14. Instructional programs at the career, prevocational, and/or vocational levels are inadequate and/or often not available.

15. Significant delays often occur between referral for special education and the completion of educational evaluations.

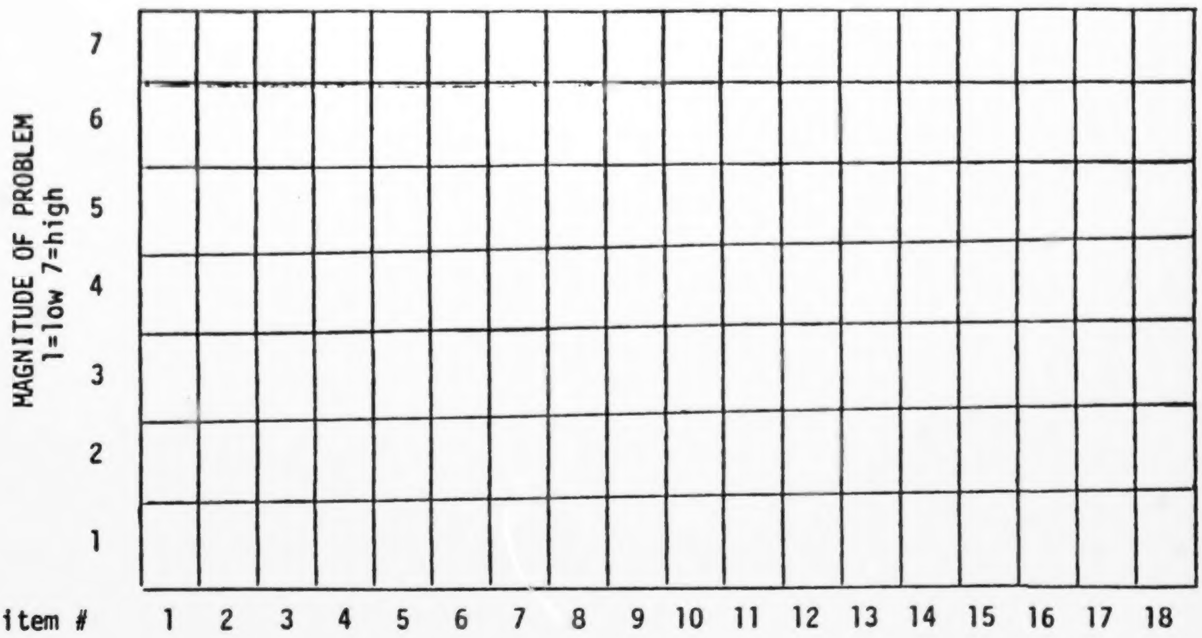
16. Instructional equipment, materials and supplies are inadequate to meet the needs of handicapped students.

17. Discipline procedures, suspension procedures and/or procedures for dealing with disruptive students in special education are inadequate.

18. High turnover (burnout) of special education teachers disrupts the continuity of services which affects the quality of instruction.

Figure 6

BARRIER RATINGS QUESTIONNAIRE: COUNTY PROFILE



B=Board Member
S=Superintendent
D=Director of Special Education
PE=Elementary Principal
PS=Secondary Principal

pointed out items which indicated a high level of agreement or low level of agreement by the district participants. Perceptions of high "magnitude of problem" were determined by totalling responses by all team members and viewing them relative to low magnitude issues. (A higher score indicated a higher degree of problems while a lower score indicated a lower degree of problems.) Non or low agreement items were visually pointed out by the consultant and most often generated clarification of respondents' views and sharing of information by team members. Again those issues which were agreed upon to be high in magnitude as those low in magnitude were placed on the consultant checklist for future reference.

The last data profile to be discussed on the first ICP Session was done in conjunction with the "magnitude of problem" responses to the Barriers Instrument and required participants to designate the "responsible party" for each of the 18 issues. Consultants were instructed to point out those items where county participants showed a high degree of agreement versus a low degree of agreement (Figure 7). Commonalities in "magnitude of problem" agreement and "responsible party" agreement were brought to the attention of district members as were those items in disagreement. Presenting the findings in this manner allowed for discussion and possible clarification between district personnel and permitted the group to further identify issues which were considered strengths and issues which required additional attention.

The consultant culminated the first ICP Session by reviewing findings as discussed and clarified by the district team resulting in a list of strengths and needs. Team members were instructed to view the general

Figure 7

BARRIER RATINGS QUESTIONNAIRE: COUNTY PROFILE

RESPONSIBLE PARTY

	B	S	D	PE	PS
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					

Persons responding

B=BOARD MEMBER
S=SUPERINTENDENT
D=DIRECTOR OF SPECIAL EDUCATION
PE=ELEMENTARY PRINCIPAL
PS=SECONDARY PRINCIPAL

Response Categories

B=Board Member
S=Superintendent
CO=Central Office
P=Principal

workshop content by making note of how the particular issues related to their specific county needs. Through the process of the general session workshop, ten (10) minutes were allotted at the end of each session for county teams along with consultant assistance to discuss the preceding material and to designate the specific county's needs and strengths relative to the content presented. Consultants noted items in the respective issues on the "reminder checklist."

ICP Session B

The major purpose of the second (B) ICP Session was to write an individual county plan based on identified needs as delineated from the needs assessment discussion and from the general sessions. Consultants were provided with general instructions in writing the ICP (Figure 8) to direct the group after need items were prioritized. Each section of the ICP (Figure 9) was completed by the team and signed prior to the end of the workshop. A copy was kept by the consultant. Consultants reminded the team that they would be contacted not only for purposes of follow-up on the activities but also to provide needed assistance in meeting the objectives prioritized on the ICP.

Follow-up activities were provided by each county consultant and were guided by a planned process to evaluate the team's resolution of delineated ICP objectives (Figure 10). Two phone contacts were made at one and two-month intervals after the general workshop. Consultants were required to collect through the phone interview process, information on the completion of the ICP objectives (Figure 11). Three months after the general workshop, consultants made on-site visits to the county to collect further information

Figure 8

Writing the ICP

Consultant Guidelines

Prior to the actual writing of the ICP, you and your county participants will be given many opportunities to identify strengths and weaknesses. From this list, have them prioritize need areas. In writing the ICP:

A. Select a maximum of 3 educational outcomes.
B. Make the selection based on their prioritization, however suggest that the outcomes be attainable, not real broad, and relatively easy to break down into action steps. The educational outcome section should answer the WHAT question.
C. In developing the action steps, lead the group into identifying how the educational outcome should be achieved, along with resources to achieve each step.
D. Assessment procedures should be quantifiable as much as possible. You may include Grant consultant follow-up within a designated time frame under the assessment area.
E. A section on the ICP was added to specify the planned date of mastery. Please make sure that the county participants address this area.

Definition of ICP Components

Educational outcome: answers the question what?; reflects the end desired result. For example, to increase positive attitudes through cognitive exposure to PL 94-142 by building prinicpals, may be an educational outcome.

Action Steps: answers the question how?; outlines the procedures or steps to achieve the educational outcome. For example, one step toward the end result of increasing positive attitudes and knowledge may be the development or securing of a pre-test which measures present knowledge/attitudes.

Resources: those individuals, monies, materials which may help the action step be achieved. For example, the individual county consultant may provide a pre-test measure to the county for assessing knowledge/attitudes.

Assessment Procedure: answers the question, how do we know that the educational outcomes has been achieved?; a procedure which related to the educational outcome of increasing knowledge/attitudes may be a post test measure.

Figure 8 Continued

Who/FN: who is responsible for initiating each step. Other individuals may be included on this section based on other functions. For example, some may be included as planning committee members, review/approval processors, implementor, information gatherers, etc.

Date Begun/Planned Mastery Date: reflect date as month/year in appropriate spaces. On first page of ICP, you'll notice a review date. This should be discussed with county along with a 3 month review date time line from the date of the workshop. You may want to discuss and assign the contact person that you will communicate with in the follow-up process.

Figure 9

DATE____________________

INDIVIDUAL COUNTY PROGRAM (ICP)

COUNTY____________________

ADDRESS____________________

____

PHONE ____________________

3 MONTH REVIEW DATE __________

CONSULTANTS____________________

____

PHONE ____________________

ICP COMMITTEE MEMBERS

SIGNATURE	POSITION	IN AGREEMENT?	
		YES	NO

Present Level of Performance: STRENGTHS WEAKNESSES

Figure 9 Continued

COUNTY________________________

PAGE_____

INDIVIDUAL COUNTY PROGRAM (ICP)

EDUCATIONAL OUTCOMES	ACTION STEPS	RESOURCES	ASSESSMENT PROCEDURES	WHO	FN	DATE BEGUN	Planned date of mastery

Figure 10

County Consultant Follow-up Guidelines

Purpose: As part of the ICP Process, follow-up contact with your county is necessary to:

1. determine resource needs that may have emerged since the writing of the ICP and provide technical assistance to the county in carrying out designated educational outcomes; and
2. provide evaluative data regarding the effectivenesses of the ICP process to freefill Grant objectives.

Schedule of Follow-up: Each consultant should conduct follow-up activities which include the following:

1. One month after the workshop and writing of the ICP a phone contact to the Superintendent should be made and documented on Form A. Suggestions for securing necessary information are included on the form. Based on the conversation with the Superintendent, you then should proceed to contact all members of the team, first those with specified "initiating functions"(refer to the ICP educational outcomes for this information) and then as appropriate to secure additional information, contact with other members of the team may be warranted. If additional resources are necessary to address barriers toward implementation, make arrangements to follow through with the requests for technical assistance. (this should also be recorded on Form A).

2. Two months after the workshop, phone contact with the Superintendent, following the same procedures as above, should be recorded on Form A.

3. Three months after the workshop arrange with the Superintendent to conduct your on site visit. Getting all members of the team together at the county office to provide you with information to complete form B is suggested.

*Please submit copies of your documentation to the Project Coordinator after each contact.

Figure 11

FORM A
COUNTY________________
CONTACT PERSON__________

PHONE CONSULTANT CONTACT

DATE________________
WKSHP DATE__________

The purpose of this follow-up contact is to gather preliminary information from the Superintendent (and other team members) through informal interview processes as to what's been going on to date since the county's participation in the Dean's Grant Workshop. Essentially you are gathering case study information of an open-ended nature on:

1) how workshop participation has been helpful in the sp.ed. delivery process;
2) if educational outcomes have been started and what steps have been achieved;
3) if specific barriers have prevented or held up implementation (list and provide help);
4) how workshop processes, materials and attendance has effected programs;
5) what "springboard" effects have emerged as a result of workshop participation;
6) how other county personnel have benefited from workshop materials, processes, etc.;
7) and any other questions which may result from the interview.

PLEASE DOCUMENT YOUR INTERVIEWS ON THIS FORM . YOU MAY USE THE BACK IF NECESSARY OR ADDITIONAL FORMS IF PHONE CONTACT WITH OTHER TEAM MEMBERS IS SUGGESTED BY THE SUPERINTENDENT.

---

on the status of the identified objectives (Figure 12). Both the phone and on-site follow-up data were collected and analyzed to determine the effectiveness of the process in assisting county teams to resolve problems in the delivery of special education services. Evaluative information on the process is presented in the final section of this report.

Summary

The use of the individual county team process in identifying specific needs of districts was developed to report back to county members on the results of their participation in the original needs assessment process. The individual county review of data facilitated the identification of unique problems that districts were having in the delivery of special education services. Plans for remediating identified problems were developed by team members and technical/resource assistance was provided by the staff consultant in addition to follow-up processes to collect formative as well as summative information on the effectiveness of the ICP process.

Figure 12

FORM B
COUNTY ____________
CONTACT PERSON ____________

ON SITE CONSULTANT VISIT

DATE ____________
WORKSHOP DATE ____________

Educational Outcome #	Questions	Data	
	1. Estimate the amount of time spent on this ed. outcome:		
	2. What % of the outcome has been achieved?		%
	3. What barriers have prevented achievement? (List)		
	4. Who has been involved in working on this outcome?	Positions	# of people
	1. Estimate the amount of time spent on this ed. outcome:		
	2. What % of the outcome has been achieved?		%
	3. What barriers have prevented achievement? (List)		
	4. Who has been involved in working on this outcome?	Positions	# of people
	1. Estimate the amount of time spent on this ed. outcome:		
	2. What % of the outcome has been achieved?		%
	3. What barriers have prevented achievement? (List)		
	4. Who has been involved in working on this outcome?	Positions	# of people
GENERAL QUESTIONS	1. How have workshop materials/processes been shared with others?		
	2. How have they been used?		
	3. Has workshop participation stimulated other areas of work?		
	4. Other Comments:		

ANALYSIS: THE NEXT STEP BEYOND COMPLIANCE

Analysis: The Next Step Beyond Compliance

by

Marta A. Roth

To make special education programs an integral part of the public school system requires the endorsement and commitment of key policy developers and decision makers. Superintendents and boards of education must understand the intended aims and ramifications of the law and exhibit positive attitudes so that policies and resource allocations result in appropriate support for the education of handicapped students. The workshop theme, "Beyond Compliance," expresses the goal of the inservice training: to assist schools in developing an active commitment to special education services within their student and staff populations and in the surrounding community. Finding effective ways to achieve that critical level of endorsement which will ensure permanent inclusion of special education services in the standard school program is an important concern for educators and for handicapped students nationally.

It was toward this goal that specific Grant objectives were completed during the three (3) year process of designing and implementing the needs assessment, workshop design, and training. This formative evaluation guided the revision of grant methods and products. While information regarding the efficacy of these processes is contained in previous sections, the focus of the analysis section was to present evidence of overall grant effectiveness in promoting change within the school districts of West Virginia.

Two major evaluation efforts to serve as the basis for a summative review of workshop processes were conducted. Following each one and one-half day workshop, participant counties (Figure 1) were requested to complete an evaluation instrument developed and revised during the initial pilot session. Each major generic session presentation as well as the ICP (individual county planning sessions) was rated as to their relevancy, content, method and overall benefit to workshop participants (Figure 2-A). To gain additional formative information regarding workshop content and processes, general comments (Figure 2-B) and interviews (Figure 3) with participants were conducted during the pilot and first workshop sessions. Results of the interview processes provided similar information and subsequent validity for the use of the formal workshop evaluation instrument. A summary of ratings of the six (6) workshop sessions is presented by session in Figure 4. Percent of participant responses to each session was calculated as poor, fair, satisfactory, good or excellent. If the categories of good/excellent are combined, all sessions received a rating of good/excellent by 75 percent of the workshop participants. Further, the following sessions received the highest ratings: "Fictitious Frustrations/A Celebration," "The Legal Process," and the "ICP Sessions." In viewing evaluations from the perspective of sessions which were most relevant and timely to participants in carrying out their specific duties, it became apparent that legal and individual district sessions were most applicable to providing new and useful ideas to aid in the performance of job related activities. While content issues such as referral and budgets were identified as general problems through the needs assessment process, conducted during first year grant activities, districts may have researched

Figure 1

County Teams Trained Via Dean's Grant Workshops

	Date	Counties Trained	Location
Pilot Workshop 1984-85	June 22-23	Marion Morgan	Ramada Inn Morgantown, WV
1st Session, 1984-85	Dec. 7-8	Berkeley Hampshire Grant Jefferson Mineral	Sheraton Martinsburg, WV
2nd Session, 1984-85	Feb. 22-23	Barbour Hardy Preston Taylor Tucker	Canaan Valley Davis, WV
3rd Session, 1984-85	Apr. 18-19	Braxton Lewis Pendleton Randolph Upshur	Canaan Valley Davis, WV
1st Session, 1985-86	Oct. 16*	Brooke Hancock Ohio Marshall Wetzel	Sandscrest Conference Center Wheeling, WV
2nd Session, 1985-86	Oct. 24-25	Doddridge Ritchie Pleasants Gilmer Calhoun	Ramada Inn Morgantown, WV
3rd Session, 1985-86	Dec. 12-13	Monongalia Webster Wirt Harrison Marion** Wood	Sheraton Lakeview Morgantown, WV

*At the request of participants, workshop condensed into 1 day.

**Included again for follow-up and evaluation purposes.

Figure 2-A

SESSION EVALUATIONS
Dean's Grant Workshop

Please circle the adjective of your choice: Poor (P), Fair (F), Satisfactory (S), Good (G), or Excellent (E), to describe the following aspects of each session.

	Poor	Fair	Satis.	Good	Excell.
"RESOURCE ROOM"					
1. The contribution of this session in providing new information was..	P	F	S	G	E
2. The contribution of this session in stimulating ideas that will help in the performance of my job was......	P	F	S	G	E
3. Opportunity provided for participant discussion and clarification were..	P	F	S	G	E
4. The organization of this session was.................	P	F	S	G	E
5. AN OVERALL RATING FOR THIS SESSION WOULD BE..........	P	F	S	G	E
"FICTITIOUS FRUSTRATIONS...A CELEBRATION..."					
1. The contribution of this session in stimulating ideas that will help in the performance of my job..........	P	F	S	G	E
2. Opportunity provided for participant discussion and clarification were..	P	F	S	G	E
3. The organization of this session was.................	P	F	S	G	E
4. AN OVERALL RATING FOR THIS SESSION WOULD BE..........	P	F	S	G	E
"WHERE'S THE BUCKS?"					
1. The contribution of this session in providing new information was..	P	F	S	G	E
2. The contribution of this session in stimulating ideas that will help in the performance of my job was......	P	F	S	G	E
3. Opportunity provided for participant discussion and clarification were..	P	F	S	G	E
4. The organization of this session was.................	P	F	S	G	E
5. AN OVERALL RATING FOR THIS SESSION WOULD BE..........	P	F	S	G	E
"REFERRAL PROCESS"					
1. The contribution of this session in providing new information was..	P	F	S	G	E
2. The contribution of this session in stimulating ideas that will help in the performance of my job was......	P	F	S	G	E
3. Opportunity provided for participant discussion and clarification were..	P	F	S	G	E
4. The organization of this session was.................	P	F	S	G	E
5. AN OVERALL RATING FOR THIS SESSION WOULD BE.........	P	F	S	G	E
"LEGAL PROCESS"					
1. The contribution of this session in providing new information was..	P	F	S	G	E
2. The contribution of this session in stimulating ideas that will help in the performance of my job was......	P	F	S	G	E
3. Opportunity provided for participant discussion and clarification were..	P	F	S	G	E
4. The organization of this session was.................	P	F	S	G	E
5. AN OVERALL RATING FOR THIS SESSION WOULD BE..........	P	F	S	G	E
"BUILDINGS, BUSES, & BARRIERS"					
1. The contribution of this session in providing new information was..	P	F	S	G	E
2. The contribution of this session in stimulating ideas that will help in the performance of my job was......	P	F	S	G	E
3. Opportunity provided for participant discussion and clarification were..	P	F	S	G	E
4. The organization of this session was.................	P	F	S	G	E
5. AN OVERALL RATING FOR THIS SESSION WOULD BE..........	P	F	S	G	E
"ICP SESSIONS A & B"					
1. The contribution of this session in providing new information was..	P	F	S	G	E
2. The contribution of this session in stimulating ideas that will help in the performance of my job was......	P	F	S	G	E
3. Opportunity provided for participant discussion and clarification were..	P	F	S	G	E
4. The organization of this session was.................	P	F	S	G	E
5. AN OVERALL RATING FOR THIS SESSION WOULD BE..........	P	F	S	G	E
OVERALL RATING FOR DEAN'S GRANT WORKSHOP.................	P	F	S	G	E

Please use the back of this form for any additional/general comments/recommendations.

Figure 2-B

GENERAL EVALUATION

Dean's Grant Workshop

Your comments and recommendations on the following workshop arrangements would be appreciated:

TOPIC	COMMENTS	RECOMMENDATIONS
Workshop location		
Required Travel Time		
Lodging Accommodations		
Workshop Dates (time of year)		
Workshop Days of Week		
Workshop Time Schedule		
Preworkshop Communications		
Handouts		
Social/Food Arrangements		

Figure 3

COUNTY____________________ DATE____________________

WORKSHOP EVALUATION INTERVIEW

1. What was the most positive aspect of the workshop and why?

2. What is the area of biggest concern and what would you recommend as improvements?

3. How did this workshop compare with other workshops?

Figure 4

All General Workshop Session Ratings by Percent of Participant Responses

	Poor	Fair	Satis.	Good	Excell.
Fictitious Frustrations/ A Celebration			2%	50%	48%
Resource Room			16%	63%	21%
Referral		2%	10%	49%	39%
Legal		1%	4%	46%	49%
Budget/Planning		1%	20%	45%	34%
Facilities	1%	4%	20%	42%	33%
ICP	1%	0%	8%	49%	42%
Overall Workshop			8%	61%	31%

and resolved these problems in the interim. To effectively design workshop content to be meaningful and timely, current and perhaps ongoing needs must be assessed and prioritized. The overall workshop ratings indicated that 92 percent of the participants found the workshop processes to be good/excellent. Further, it was perceived that the development approach and the team training design were applicable to other content focus areas for school improvement and change efforts as well as for special education service improvement.

The second evaluative effort for workshop participants was based on follow-up data generated by county. During each workshop, each county team with the assistance of a "county consultant" developed a change infusion plan based on the initial needs assessment and information gathered during the one and one-half day workshop presentations. This effort resulted in the writing of an (ICP) individual county plan which delineated specific goals, activities, resources, and evaluative methods for attempting to meet each county's objectives.

County consultants were trained and given forms and guidelines for conducting follow-ups and gathering evaluative information on the effectiveness of the processes. General findings of the follow-up process were as follows:

1.) While the initial phone follow-up contact by county consultants was with the superintendent, the superintendent directed most future communications to the director of special education.

2.) Materials sharing from the workshop was most usually done on an informal basis. A few counties have presented workshop information to the boards while others have plans to conduct similar workshops particularly with building level administrators.

3.) Time was one of the major barriers to implementing specific county change infusion plans. Perhaps the follow-up procedures need to take this element into consideration especially with the first phone contact being within a short span of time between the writing of the ICP and first contact.

4.) Most counties feel no need for the consultant to conduct the on-site visit. Most closing interviews were conducted by phone with the director of special education suggesting that they'll call the consultant if necessary.

5.) The most widely sighted benefit mentioned by workshop participants was an increase in communication between the members of the county team and a more positive attitude toward special education within the county.

In addition to gathering comments during follow-up contacts, consultants were instructed to gather quantitative data and report on the completion of ICP objectives and the number of other district personnel that were involved directly or indirectly in meeting the objectives. These findings are presented in Figure 5. County consultants reported having a total of 126 contacts with the districts after their participation in the general session workshops. An average of four contacts were made by phone, on-site visits and/or formally scheduled inservices which were planned as part of the ICP process. Out of 33 participating districts, 32 individual county plans were developed. Twenty-seven districts have completed at least 75% of the ICP objectives to date, with an average completion rate of 82% for all participating districts. An average of 22 people per district have been involved in completing the ICP objectives. While the director of special education continues to initiate specific county objectives, a variety of other county personnel have become involved in resolving problems that have previously been only

Figure 5

ICP FOLLOW-UP SUMMARY

County	Workshop Date	# of Contacts	# People Involved	% ICP Completed
Marion	6/84	3	38	100%
Morgan	6/84	4	34	100%
Berkeley	12/84	3	33	83%
Hampshire	12/84	3	70	100%
Grant	12/84	4	12	100%
Jefferson	12/84	4	15	85%
Mineral	12/84	4	6	75%
Barbour	2/85	5	12	100%
Hardy	2/85	3	15	90%
Preston	2/85	3	15	75%
Taylor	2/85	5	20	90%
Tucker	2/85	4	18	66%
Braxton	4/85	4	15	100%
Lewis	4/85	4	23	88%
Pendleton	4/85	3	20	80%
Randolph	4/85	4	30	70%
Upshur	4/85	2	45	100%
Brooke	10/85	2	75	50%
Hancock	10/85	6	9	80%
Marshall	10/85	9	15	85%
Ohio	10/85	2	14	75%
Wetzel	10/85	3	16	75%

Figure 5 Continued

ICP FOLLOW-UP SUMMARY - Page 2

County	Workshop Date	# of Contacts	# People Involved	% ICP Completed
Calhoun	10/85	3	90	100%
Doddridge	10/85	4	4	50%
Gilmer	10/85	5	11	100%
Pleasants	10/85	4	10	75%
Ritchie	10/85	3	12	70%
Harrison	12/85	2	18	100%
*Marion	12/85	3	8	50%
Monongalia	12/85	5	7	50%
Webster	12/85	2	10	75%
Wirt	12/85	4	8	75%
Wood	12/85	7	4	None submitted
TOTALS		126	732	
AVERAGES		4	22	82%

*Marion County included again for follow-up and evaluation purposes.

special education responsibilities.

Two major impacts of this increased involvement of district personnel in planning and problem resolution are apparent. First, integration of special education responsibilities should promote ownership and subsequently more positive attitudes towards programs and students. Increased participation through function rather than traditional administrative structures should benefit the educational organization. Hopefully, the planning and resolution process will be applied to other curricular and district concerns. Secondly, increased involvement of general and special education personnel, particularly in leadership roles, should enhance cooperation and communication through the district organization. In fact, the quantitative data concerning the large numbers of involved persons, confirms comments made to consultants during the follow-up processes. Increased communication and more positive attitudes toward special education while difficult to quantify, were cited as being major benefits of the workshop and ICP processes.

The short term accomplishments of Project activities are positive. Gaining commitments from 32 county districts in the West Virginia University service area to participate in a project of this nature has provided evidence that school districts are directing energies toward improving special education services. It also indicates that districts and institutions of higher education can and are willing to work cooperatively toward quality reform in education. Secondly, over 150 school district personnel benefited from direct workshop experiences. Moreover, the impact upon their participation in direct workshop activities, particularly through the ICP processes, had a multiplier effect within the district. Finally, while formal follow-up and grant activities have terminated, districts continue to work on problems identified and plans for improvement in special education services. University personnel have continued to provide technical assistance when requested. The evidence suggests that school districts in West Virginia are committed to going beyond special education compliance and are accepting the challenge to strive for quality education for their exceptional students.

APPENDIX: NEEDS ASSESSMENT INSTRUMENTS

APPENDIX: NEEDS ASSESSMENT INSTRUMENTS

Page
Opinions about Special Education Issues 217
Knowledge of Special Education Issues 219
Barrier Ratings 223
Interview Questions 233

Background Information

Board of Education Member 234
Superintendent 236
Principal 238

County #____________ Position (Letter)____________

Opinions about Special Education Issues

We would like your opinion not your information about laws or norms. Please rate the following to indicate how you feel about the statement. Your choices range from strongly disagree to agree. Put a circle around the answer that most agrees with how you feelabout the statement. Remember, we are interested in your opinion; answer on that basis, not whether or not you know the statement refers to something that has already been mandated. (SD = Strongly Disagree, D = Disagree, A = Agree, and SA = Strongly Agree.)

1. Having handicapped children in their school building is distracting for normal children. SD D A SA
2. Regular classroom teachers will be unfairly burdened by the need for additional training to teach handicapped children. SD D A SA
3. Non-handicapped children will profit from their contact with handicapped students. SD D A SA
4. Children with severe and profound handicaps should not attend public school. SD D A SA
5. A handicapped child will develop a more positive self-concept as a result of being placed in a regular classroom. SD D A SA
6. Handicapped children learn best in special self-contained classes designed for their special needs. SD D A SA
7. Children who are not toilet trained should not be admitted to public schools. SD D A SA
8. The local school district should provide educational programs only for handicapped children that can profit from an academic program. SD D A SA
9. Education of the handicapped should be paid only through federal funds. SD D A SA
10. If I were the parent of a child who had a learning problem, I would want him to be in a regular classroom for most of the school day. SD D A SA

11. Normal children will make fun of handicapped children in their classes. SD D A SA

12. A handicapped child will likely form positive social relationships with other children in a regular classroom. SD D A SA

13. With a handicapped child in a regular classroom, there will be an increase in the number of behavior problems among the other children. SD D A SA

14. Handicapped persons don't want any more sympathy than other people. SD D A SA

15. The presence of a handicapped child in a regular classroom will be a cause for complaints from the parents of the other children. SD D A SA

16. Average students are uncomfortable when they are with children who have obvious physical deformities. SD D A SA

17. The experience of being in a regular classroom will increase the chances of a handicapped child attaining a more productive and independent place in society. SD D A SA

18. Handicapped workers cannot be as successful as other workers. SD D A SA

19. Handicapped people usually do not make much of a contribution to society. SD D A SA

County #________________ Position (Letter) ____________

Knowledge of Special Education Issues

Please answer each of these questions to the best of your knowledge by circling the letter of the response you think is correct. Please do not consult anyone else; just respond with what you think is the most accurate answer.

1. PL 94-142, as I perceive it, established priorities for handicapped children and the first priority of the law is the education of
   a. preschool handicapped.
   b. educable physically handicapped.
   c. all unserved handicapped children.
   d. all secondary level mentally retarded handicapped with vocational training.

2. If we receive funding for special education under 94-142, the level of funding for our county will be for
   a. the total number of children identified as handicapped and served by our district.
   b. the total number of children identified as handicapped but not in excess of 12% of the school population.
   c. a total number of 12% of our school age population no matter how many handicapped children are identified and served in our school district.
   d. those children identified as learning disabled, behavior disordered and mentally retarded.

3. As far as I know, the individualized instruction programs (IEP) required by PL 94-142 are best defined as
   a. a set of objectives for the class the child will attend.
   b. a statement of what parents want their children to accomplish.
   c. a contract between a school and parents for the child's successful performance level.
   d. a statement of the needs of the child and what will be provided to meet these needs.

4. According to information I've received, the county school district has the responsibility to provide specially designed instruction to meet the unique needs of the handicapped when
   a. there is a sufficient number of children with a handicapped condition to make up a special class.
   b. the school district has sufficient funding for the instruction.
   c. there is no accessible facility.
   d. the child resides within the county school boundaries.

5. I believe that our county school district can use its PL 94-142 dollars to
   a. supplant funds now used for handicapped children.
   b. totally fund present and new special education programs.
   c. pay excess costs of special education programs.
   d. pay a minimum of 40% of the costs of the special education program.

6. It is my understanding that WV Code 18-20 (Education of Exceptional Child) mandates that all handicapped children receive a free and appropriate education if they are between
    a. 5 and 8 years of age.
    b. 5 and 23 years of age.
    c. 5 and 18 years of age.
    d. 5 and 21 years of age.

7. As I understand the information on parental rights, if parents do not approve of the educational placemement of their children
    a. the school must change the placement to the one the parents prefer.
    b. the school has the final decision in the child's placement.
    c. the state department of special education will make the final decision.
    d. a hearing will be held and an impartial hearing officer will decide.

8. If a handicapped child cannot be educated locally and must be educated in a day or residential program outside your county, then the county must
    a. meet 60% of the cost of the day care or residential care of the child.
    b. meet all the costs of the day care or residential care of the child.
    c. pay for the educational cost of the program but not the room and board cost.
    d. vary individual contracts depending upon the agencies involved.

9. Our local education agency application for special education must
    a. contain a budget.
    b. be open for public examination.
    c. have a state education advisor on its planning board.
    d. a & b.

10. Our county school district in complying with the intent of the education of the handicapped law must provide a free and appropriate education to all handicapped students
    a. who can profit from an educational program.
    b. of appropriate age who are identified and need service.
    c. for whom we have an operating program.
    d. who are in the educable intelligence range.

11. Under WV State regulations, appropriate educational placement in a program for a handicapped child must be considered by the following mandated participants
    a. the superintendent or designee and teachers.
    b. the superintendent or designee, parent(s), teachers and child when appropriate.
    c. the superintendent or designee, parent(s), and teachers.
    d. the superintendent or designee, parent(s), teachers, child when appropriate, and certified professional assessor.

12. Under State Regulations for Exceptional Students special transportation for handicapped students
    - a. specifies recommendations for maximum transportation time in accordance with State Board Regulations.
    - b. requires supervision by the public agent at points of transfer.
    - c. requires parents to assume the responsibility of meeting the bus at designated stops.
    - d. all of the above.

13. Among the child find activities outlined in the WV State Regulations for Exceptional Students are mandates for
    - a. collaborative arrangements with related service agencies for sweep screening.
    - b. annual assessments coordinated with University Affiliated Centers.
    - c. the development of materials by the LEA for distribution to the public.
    - d. the establishment of special administrative committees to assist in the identification process.

14. All referred students must undergo a multi-disciplinary assessment in areas related to
    - a. adaptive behavior/behavioral functioning.
    - b. communicative functioning and general intelligence.
    - c. the suspected exceptionality as appropriate.
    - d. an assessment of learning styles.

15. According to the new West Virginia State Regulations (1983) the appropriate class placement for a gifted student would be
    - a. regular classroom with C/A peers.
    - b. self-contained gifted classroom.
    - c. classroom as identified by IEP and level of performance rather than C/A or grade placement.
    - d. special classrooms/services not identified for gifted students.

16. The least restrictive educational environment requirement of PL 94-142 refers primarily to
    - a. increased structure within the special classroom
    - b. the continuum of services in which programming is provided.
    - c. teaching methods to use in special programs.
    - d. reduced structure within the special classroom.

17. According to PL 94-142, states must comply with specific requirements concerning the education of the handicapped. If the states do not comply with these requirements, what will be the result?
    - a. They will be forced to pay a penalty fee to the federal government.
    - b. They will not receive federal financial aid for the education of the handicapped.
    - c. Funds for regular education will be cut.
    - d. The federal government will close down the programs for the handicapped in that state.

18. Which of the following exceptionalities is not included in provisions of PL 94-142?
    a. physical handicaps
    b. behavior disorders
    c. gifted
    d. communication disorders

19. Parental participation in IEP development is
    a. required by law.
    b. permitted when they ask to be involved.
    c. optional.
    d. no longer required.
    e. required in special situations.

20. Under PL 94-142, court cases that have addressed the disciplinary action - expulsion from school, mandates
    a. the decision be based solely on the authority of the school principal.
    b. that expulsion cannot be related to the handicapping condition.
    c. the approval of the superintendent of schools.
    d. sanction from the school pychologist.
    e. a, c, & d.

County # ______________________ Position (Letter) ______________

Barrier Ratings

DIRECTIONS:

Please read each statement that may be related to an emergent, unresolved problem in your county about special education. Use of a pencil to circle choices is suggested. For each of the (18) statements:

A. Circle the degree to which the problem statement refers to an existing problem in your county from low (1) to medium (4) to high (7) magnitude of problem.

B. Circle the priority that you in your professional position would assign to this emergent, unresolved problem from low (1) to medium (4) to high (7) priority.

C. Circle the probability of resolving the problem within your county from low (1) to medium (4) to high (7) probability.

D. Circle the group/individual who would assume primary responsibility for this emergent problem resolution, either the Board of Education (BOE), the Superintendent (SUP), Central Office staff (CO), or the Principal (P).

E. Circle a category of primary administrative function that you would assign to resolve this problem as: Planning (PL); Coordinating (CD); Policy (PO); Personnel (P); Facilities Management (FC); Budget (BD); Public Relations (PR); Organizing (OR); Evaluation (EV); or Communicating (CM).

1. THERE IS A LACK OF GENERAL PUBLIC AWARENESS OF THE EFFECTIVENESS OF SPECIAL EDUCATION.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7			
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7			
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7			
Responsible Party (Circle One)	BOE		SUP		CO		P			
Adm. Function (Circle One)	PL	CD	PO	P	FC	BD	PR	OR	EV	CM

2. SPECIAL EDUCATION PLACEMENTS ARE MADE SOLELY ON THE BASIS OF THE AVAILABILITY OF PROGRAMS RATHER THAN ON THE NEEDS OF INDIVIDUAL STUDENTS.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One) BOE SUP CO P

Adm. Function (Circle One) PL CD PO P FC BD PR OR EV CM

3. EDUCATIONAL PLANNING FOR HANDICAPPED STUDENTS IS SHORT RANGE AND CONSIDERATION IS OFTEN NOT GIVEN TO POSTSECONDARY OR CAREER GOALS.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One) BOE SUP CO P

Adm. Function (Circle One) PL CD PO P FC BD PR OR EV CM

4. EXCESSIVE TEACHER CASELOADS OR CLASS SIZES INTERFERE WITH THE PROVISION OF APPROPRIATE INSTRUCTION.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One)	BOE	SUP	CO	P

Adm. Function (Circle One)	PL	CD	PO	P	FC	BD	PR	OR	EV	CM

5. LACK OF REMEDIAL PROGRAMS AND ALTERNATIVES IN REGULAR EDUCATION CAUSE SOME STUDENTS TO BE INAPPROPRIATELY PLACED IN SPECIAL EDUCATION.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One)	BOE	SUP	CO	P

Adm. Function (Circle One)	PL	CD	PO	P	FC	BD	PR	OR	EV	CM

6. PARENTS OF HANDICAPPED STUDENTS DO NOT HAVE ADEQUATE INPUT INTO THE EDUCATIONAL PROCESS, I.E., PARENTS ARE NOT ADEQUATELY INFORMED, ARE NOT ACTIVE PARTICIPANTS, ARE NOT PERCEIVED OR ACCEPTED AS EQUAL PARTNERS IN THE EDUCATIONAL PROCESS, AND/OR ARE OFTEN INTIMIDATED BY SCHOOL PERSONNEL.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One) BOE SUP CO P

Adm. Function (Circle One) PL CD PO P FC BD PR OR EV CM

7. THERE IS INSUFFICIENT SPACE IN SCHOOL BUILDINGS FOR THE INITIATION OF NEW SPECIAL EDUCATION PROGRAMS.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One) BOE SUP CO P

Adm. Function (Circle One) PL CD PO P FC BD PR OR EV CM

8. THE PHYSICAL ENVIRONMENT OF EXISTING SPECIAL EDUCATION CLASSROOMS (I.E., SIZE, LOCATION, FURNISHINGS) IS FREQUENTLY NOT SUITABLE TO MEET THE NEEDS OF HANDICAPPED STUDENTS.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One) BOE SUP CO P

Adm. Function (Circle One) PL CD PO P FC BD PR OR EV CM

9. EDUCATORS ARE NOT ADEQUATELY PREPARED FOR DEALING WITH PARENTS AND FAMILIES OF HANDICAPPED STUDENTS.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One) BOE SUP CO P

Adm. Function (Circle One) PL CD PO P FC BD PR OR EV CM

10. SPECIAL BUSES EQUIPPED TO HANDLE HANDICAPPED STUDENTS ARE OFTEN NOT AVAILABLE.

Magnitude of	(low)			(medium)			(high)
Problem	1	2	3	4	5	6	7
Administrative	(low)			(medium)			(high)
Priority	1	2	3	4	5	6	7
Probability	(low)			(medium)			(high)
of Resolution	1	2	3	4	5	6	7
Responsible Party (Circle One)	BOE		SUP		CO		P

Adm. Function (Circle One)	PL	CD	PO	P	FC	BD	PR	OR	EV	CM

11. THERE IS LACK OF INTERAGENCY COOPERATION IN THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES (I.E., DVR., DEPT. OF WELFARE, PUBLIC HEALTH, ETC.).

Magnitude of	(low)			(medium)			(high)
Problem	1	2	3	4	5	6	7
Administrative	(low)			(medium)			(high)
Priority	1	2	3	4	5	6	7
Probability	(low)			(medium)			(high)
of Resolution	1	2	3	4	5	6	7
Responsible Party (Circle One)	BOE		SUP		CO		P

Adm. Function (Circle One)	PL	CD	PO	P	FC	BD	PR	OR	EV	CM

12. PLACEMENT IN SEGREGATED SPECIAL SCHOOLS OR CENTERS, "STIGMATIZE" HANDICAPPED STUDENTS AND LIMIT THEIR PARTICIPATION IN MANY REGULAR EDUCATION PROGRAMS.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7			
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7			
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7			
Responsible Party (Circle One)	BOE		SUP		CO		P			
Adm. Function (Circle One)	PL	CD	PO	P	FC	BD	PR	OR	EV	CM

13. THE RELATIONSHIP BETWEEN THE REGULAR AND SPECIAL EDUCATORS IN THE DEVELOPMENT AND IMPLEMENTATION OF INDIVIDUALIZED EDUCATIONAL PROGRAMS IS INADEQUATE BECAUSE OF TIME CONSTRAINTS, POOR COORDINATION AND/OR LACK OF SUPERVISION.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7			
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7			
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7			
Responsible Party (Circle One)	BOE		SUP		CO		P			
Adm. Function (Circle One)	PL	CD	PO	P	FC	BD	PR	OR	EV	CM

14. INSTRUCTIONAL PROGRAMS AT THE CAREER, PREVOCATIONAL, AND/OR VOCATIONAL LEVELS ARE INADEQUATE AND/OR OFTEN NOT AVAILABLE.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7
Responsible Party (Circle One)	BOE		SUP		CO		P

Adm. Function (Circle One)	PL	CD	PO	P	FC	BD	PR	OR	EV	CM

15. SIGNIFICANT DELAYS OFTEN OCCUR BETWEEN REFERRAL FOR SPECIAL EDUCATION AND THE COMPLETION OF EDUCATIONAL EVALUATIONS.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7
Responsible Party (Circle One)	BOE		SUP		CO		P

Adm. Function (Circle One)	PL	CD	PO	P	FC	BD	PR	OR	EV	CM

16. INSTRUCTIONAL EQUIPMENT, MATERIALS AND SUPPLIES ARE INADEQUATE TO MEET THE NEED OF HANDICAPPED STUDENTS.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One)   BOE   SUP   CO   P

Adm. Function (Circle One)   PL   CD   PO   P   FC   BD   PR   OR   EV   CM

17. DISCIPLINE PROCEDURES, SUSPENSION PROCEDURES AND/OR PROCEDURES FOR DEALING WITH DISRUPTIVE STUDENTS IN SPECIAL EDUCATION ARE INADEQUATE.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One)   BOE   SUP   CO   P

Adm. Function (Circle One)   PL   CD   PO   P   FC   BD   PR   OR   EV   CM

18. HIGH TURNOVER (BURNOUT) OF SPECIAL EDUCATION TEACHERS DISRUPTS THE CONTINUITY OF SERVICES WHICH AFFECTS THE QUALITY OF INSTRUCTION.

Magnitude of Problem	(low) 1	2	3	(medium) 4	5	6	(high) 7
Administrative Priority	(low) 1	2	3	(medium) 4	5	6	(high) 7
Probability of Resolution	(low) 1	2	3	(medium) 4	5	6	(high) 7

Responsible Party (Circle One) BOE SUP CO P

Adm. Function (Circle One) PL CD PO P FC BD PR OR EV CM

County #________________ Position (Letter)________

Interview Questions

1. What is your biggest need or fear/concern relative to Special Education?

2. What is your greatest accomplishment for Special Education students to date?

Background Information

(Board of Education Member)

County #________________ male ______ female ______

1. How many years have you served in your present position with the county schools? ______

2. If you are currently employed, what is your occupation?
____

3. Are you: ______under 25, ______26-35, ______36-40, ______41-50, ______51-60, ______over 60?

4. What is your highest formal education attainment? ______less than high school, ______high school graduate, ______post high school training, ______college degree, ______advanced college degree.

5. Are you aware of any due process hearings in reference to handicapped children in your county? ______yes, ______no, ______don't know. If yes, how many? ______(Probe content).

6. Are you aware of any litigation regarding the handicapped in your county? ______ If so, was it related to: ______placement, ______evaluation, ______least restrictive environment, ______free education, ______other? If other, please briefly identify ________
____.

7. Do you have a relative who is handicapped as defined under PL 94-142 ______yes, ______no.

8. How many college courses have you taken in special education or special education administration? ______________

9. Over the last three years, how many inservice or continuing education workshops about special education have you attended? (Estimate) ______________.

10. How many articles have you read in professional journals or magazines about special education? (Estimate) __________.

11. What other prior experiences have you had with special education? (Please specify) ____
____
____

12. Estimate the percent of Board of Education time that is spent dealing with special education issues?

13. From the following list, please check the three most pressing concerns in your county school district:

_____accountability
_____alcohol abuse
_____collective bargaining
_____communication problems
_____crime/violence
_____curriculum standards
_____declining enrollments
_____desegregation
_____discipline
_____dropout rate
_____drug abuse
_____government interference
_____high energy costs
_____legal rights of students
_____outmoded facilities
_____overcrowding
_____parental involvement
_____parents' lack of interest
_____program cuts to balance budget
_____public apathy
_____qualified personnel
_____staff cuts to balance budget
_____steady or declining tax base
_____teacher militancy
_____text book adoption
_____other ______________

____

____

Background Information

(Superintendent)

County # ______________________ Male __________ Female __________

1. How many years have you served in your present position with the county schools? __________

2. Are you: _____under 25, _____ 26-35, _____ 36-40, _____ 41-50, _____ 51-60, _____ over 60?

3. What is your highest formal education attainment? _____ less than high school, _____ high school graduate, _____ post high school training, _____ college degree, _____ advanced college degree

4. Are you aware of any due process hearings in reference to handicapped children in your county? _____ yes, _____ no, _____ don't know. If yes, how many? _____(Probe content)

5. Are you aware of any litigation regarding the handicapped in your county? _____If so, was it related to: _____ placement, _____ evaluation, _____ least restrictive environment, _____ free education, _____ other? If other, please briefly identify ______________________

    ____

6. Do you have a relative who is handicapped as defined under PL 94-142? _____ yes, _____ no

7. How many members of your board are men _____, women _____?

8. How many college courses have you taken in special education or special education administration? ______________________

9. During the last year, how many inservice or continuing education workshops about special education were held in your county? (Estimate) ______________

10. Over the last three years, how many inservice or continuing education workshops about special education have you attended? (Estimate) ______________

11. How many articles have you read in professional journals or magazines about special education? (Estimate) ______________

12. Estimate the percent of time in your work that you deal with special education issues? ______________

13. What other prior experiences have you had with special education? (Please specify) ____________________

____

____

14. Estimate the percent of Board of Education time that is spent dealing with special education issues? __________

15. Identify by position those central office administrators who are involved in special education service delivery. Estimate the percentage of professional time devoted to special education service matters for those positions identified.

Position Title	% of Time in Special Education

16. From the following list, please check the three most pressing concerns in your county school district:

____ accountability
____ alcohol abuse
____ collective bargaining
____ communication problems
____ crime/violence
____ curriculum standards
____ declining enrollments
____ desegregation
____ discipline
____ dropout rate
____ drug abuse
____ government interference
____ high energy costs
____ legal rights of students
____ outmoded facilities
____ overcrowding
____ parental involvement
____ parents' lack of interest
____ program cuts to balance budget
____ public apathy
____ qualified personnel
____ staff cuts to balance budget
____ steady or declining tax base
____ teacher militancy
____ text book adoption
____ other __________

____

____

Background Information

(Principal)

County # ____________________ Male ________ Female ________

Elem. _______ Sec. _________

1.. How many years have you served in your present position with the county schools? ______

2. Are you: ______under 25, ______26-35, ______36-40, ______41-50, ______51-60, ______over 60?

3. What is your highest formal education attainment? ______less than high school, ______high school graduate, ______post high school training, ______college degree, ______advanced college degree.

4. Are you aware of any due process hearings in reference to handicapped children in your county? ______yes, ______no, ______don't know. If yes, how many? ______(Probe content).

5. Are you aware of any litigation regarding the handicapped in your county? ______ If so, was it related to: ______placement, ______evaluation, ______least restrictive environment, ______free education, ______other? If other, please briefly identify __________ ____.

6. Do you have a relative who is handicapped as defined under PL 94-142 ______yes, ______no.

7. How many college courses have you taken in special education or special education administration? ____________?

8. Over the last three years, how many inservice or continuing education workshops about special education have you attended? (Estimate) ________________.

9. How many articles have you read in professional journals or magazines about special education? (Estimate) ______________.

10. What other prior experiences have you had with special education? (Please specify) ____
____
____

11. Estimate the percent of time in your work that you deal with special education issues? ________

12. From the following list, please check the three most pressing concerns in your county school district:

______accountability
______alcohol abuse
______collective bargaining
______communication problems
______crime/violence
______curriculum standards
______declining enrollments
______desegregation
______discipline
______dropout rate
______drug abuse
______government interference
______high energy costs
______legal rights of students
______overcrowding
______parental involvement
______parents' lack of interest
______program cuts to balance budget
______public apathy
______qualified personnel
______staff cuts to balance budget
______steady or declining tax base
______teacher militancy
______text book adoption
______other ____________________

____

____

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RAINBOW ACRES is a ranch community where developmentally disabled adults are given the opportunity to develop to their fullest potential, where they "have the chance to be the best they can be." By learning to do things for themselves and contributing to the maintenance and support of the ranch, each person gains independence and a sense of self-worth and belonging. It is the realization of a dream for Reverend Ralph Showers, who in the process of building the ranch became disabled himself.

HANDICAPISM is a concept similar to "racism" or "sexism," in which people are treated unequally or unjustly because they are disabled. Handicapism assumes that people with disabilities are dependent regardless of whether they are or not, irrespective of their potential to live independent lives. This report from the Human Policy Press examines attitudes and practices that promote "handicapism" in personal interactions, in society at large, and even in the human service professions.

PEOPLE FIRST is a self-advocacy group of developmentally disabled persons who organized to speak out for themselves about the rights they were denied as citizens due to their handicaps, and to change the misconceptions and stereotypes prevalent in society. This award-winning film documents the first statewide conference sponsored by this group, attended by 600 disabled individuals, and captures the frustrations and hopes of the participants in their plea for acceptance.

GRADUATION is a film about Johnny, a mildly retarded adolescent, after his graduation from a special school. It examines the frustrations experienced by Johnny and his parents at the lack of opportunities and social contacts available for him once he is out of school, and the impending boredom that faces him.

BOARD AND CARE is an Academy Award-winning film that focuses on the needs of two Down's syndrome adolescents for a normal boy-girl relationship. Attempts by well-meaning adults to separate them bring to light the issues of rights of the mentally handicapped, integrating handicapped persons into society, and the need we all have for close, caring relationships.

A DAY IN THE LIFE OF BONNIE CONSOLO presents a portrait of a woman who was born without arms, yet leads a normal life. This film follows Bonnie through a typical day as she cares for her home and family. As she goes about her daily routine, Bonnie gives her thoughts about her life and adapting to her disability.

A DIFFERENT APPROACH treats the traditionally serious subject of employment of the handicapped as a comedy. Irreverent humor, a singing and dancing handicapped chorus, cameo appearances by celebrities, and the story of a film within a film dispel myths and prejudices about the handicapped. This "different approach" to encouraging employment of the handicapped also presents candid interviews where people speak about what it's like to work with, employ, or be, the handicapped. South Bay Mayors Committee for employment of the handicapped, Manhattan Beach, CA.

THE ADULT IN THE COMMUNITY provides interviews with several disabled adults, including a physically disabled vocational counselor, a blind homemaker and mother, a deaf couple, and a mentally retarded woman living in a group home. Each individual discusses and demonstrates adaptations they have made to overcome their handicaps and live successfully within their communities.

TEACHING THE SEVERELY HANDICAPPED provides insight into the goals of instructional programs and techniques for the severely developmentally disabled, including physical and mental handicaps and sensory/neurological impairments. This film illustrates training activities with severely disabled children and adolescents, stressing skill-building to increase independence, and the need for "normal" experiences and integration with non-handicapped peers.

COMING HOME is a film about Charlotte, a girl in her late teens who leaves a state institution to live in a community group home with 11 other retarded young adults. Produced by the Pennsylvania Association for Retarded Citizens and filmed at a Pittsburgh group house, this film examines Charlotte's new life and the need for community education to promote neighborhood acceptance of such facilities.

Video-Tape: "See Me As Me/Total Communication." Chicago State University, Chicago, IL.

Filmstrip: Everybody Has A Song by Barbara M. Chesler, 1978, P.O. Box 22206, Sacramento, CA 95831. Cost: $15.45.

Filmstrips/tapes: Ruegamer, L.C., Wagonsuler, B.R., & Kroth, R. (1981). Public Law 94-142: Putting good intentions to work: A program for parents and teachers. Campaign, IL: Research Press.